KA / BG-GPO/2515/WPP-47/2006-2008



ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ಸಂಪುಟ ೧೪೩	ಬೆಂಗಳೂರು, ಗುರುವಾರ, ಜೂನ್ ೨೬, ೨೦೦೮ (ಆಷಾಢ ೫, ಶಕ ವರ್ಷ ೧೯೩೦)	ಸಂಚಿಕೆ ೨೬

ಭಾಗ–೪

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು.

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 15 ಕೇಶಾಪ್ರ 2008, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 10ನೇ ಮಾರ್ಚ್ 2008

2007ನೇ ಸಾಲಿನ ಡಿಸೆಂಬರ್ 20ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟಿನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 1ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Sashastra Seema Bal Act, 2007 (Act No. 53 of 2007) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

THE SASHASTRA SEEMA BAL ACT, 2007

AN

ACT

to provide for the constitution and regulation of an armed force of the union for ensuring the security of the borders of India and for matters connected therewith.

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows :-

CHAPTER I

PRELIMINARY

1. Short title and commencement : (1) This Act may be called the Sashastra Seema Bal Act, 2007.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions : (1) In this Act, unless the context otherwise requires,—

(a) "active duty", in relation to a person subject to this Act, means any duty as a member of the Force during the period in which such person is attached to, or forms part of, a unit of the Force—

(i) which is engaged in operations against any enemy, or

(ii) which is operating at a picket or engaged on patrol or other guard duty along the borders of India, and includes duty by such person during any period declared by the Central Government by order as a period of active duty with reference to any area in which any person or class of persons subject to this Act may be serving;

(b) "battalion" means a unit of the Force constituted as a battalion by the Central Government;

(c) civil offence" means an offence which is triable by a criminal court;

(d) "civil prison" means any jail or place used for the detention of any criminal prisoner under the Prisons Act, 1894,(9 of 1894) or under any other law for the time being in force;

(e) 'commanding officer" means a Commandant or any officer for the time being in command of the unit or any separate portion of the Force to which such person belongs or is attached to and discharging his functions under this Act or the rules made there under;

(f) "criminal court" means a court of ordinary criminal justice in any part of India constituted under the Code of Criminal Procedure, 1973; (2 of 1974)

(g) "Deputy Inspector-General" and "Additional Deputy Inspector-General" mean respectively a Deputy Inspector-General and an Additional Deputy Inspector-General of the Force appointed under section 5;

(h) "Director-General" and "Additional Director-General" mean respectively the Director-General and an Additional Director-General of the Force appointed under section 5;

(i) "enemy" includes all mutineers, armed rebels, armed rioters, pirates, terrorists and any person in arms against whom it is the duty of any person subject to this Act to take action;

(j) "enrolled person" means an under-officer or other person enrolled under this Act;

(k) "Force" means the Sashastra Seema Bal;

(l) "Force Court" means a Court referred to in section 76;

(m) "Force custody" means the arrest or confinement of a member of the Force under section 69;

(n) "Inspector-General" means the Inspector-General of the Force appointed under section 5;

(o) "Judge Attorney-General", "Additional Judge Attorney-General", "Deputy Judge Attorney-General" and "Judge Attorney" mean respectively the Judge Attorney-General, an Additional Judge Attorney-General, a Deputy Judge Attorney-General and a Judge Attorney of the Force appointed under sub-section (2) of section 95;

(p) "member of the Force" means an officer, a subordinate officer, an under-officer or other enrolled person;

(q) "notification" means a notification published in the Official Gazette;

(r) "offence" means any act or omission punishable under this Act and includes a civil offence;

(s) "officer" means a person appointed or in pay as an officer of the Force, but does not include a subordinate officer or an under-officer;

(t) "prescribed" means prescribed by rules made under this Act;

(u) "rule means a rule made under this Act;

(v) "subordinate officer" means a person appointed or in pay as a Subedar Major or Inspector or Sub-Inspector and Assistant Sub-Inspector of the Force:

(w)"superior officer", when used in relation to a person subject to this Act, means

(i) any member of the Force to whose command such person is for the time being subject in accordance with the rules;

(ii) any officer of a higher rank or class or of a higher grade in the same class, and includes, when such person is not an officer, a subordinate officer or an under-officer of higher rank, class or grade;

(x) “under-officer” means a Head Constable of the Force;

(y) “unit” includes—

(i) any body of officers and other members of the Force for which a separate authorised establishment exists;

(ii) any separate body of persons subject to this Act employed on any service and not attached to a unit as aforesaid;

(iii) any other separate body of persons composed wholly or partly of persons subject to this Act and specified as a unit by the Central Government.

(2) All words and expressions used and not defined in this Act but defined in the Indian Penal Code, the Army Act. 1950 (45 of 1860) or the National Security Guard Act, 1986 (46 of 1950), shall have the same meanings respectively assigned to them in that Code or those Acts (47 of 1986)

(3) In this Act, references to any law not in force in the State of Jammu and Kashmir shall be construed as references to the corresponding law in force in that State.

3. Persons subject to this Act.: (1) The following persons appointed (whether on deputation or in any other manner) in the Force shall be subject to this Act, wherever they may be, namely:—

(a) officers and subordinate officers; and

(b) under-officers and other persons enrolled under this Act.

(2) Every person subject to this Act shall remain so subject until repatriated, retired, released, discharged, removed or dismissed from the Force in accordance with the provisions of this Act and the rules.

CHAPTER II

CONSTITUTION OF THE FORCE AND CONDITIONS OF SERVICE OF THE MEMBERS OF THE FORCE

4. Constitution of the Force : (1) There shall be an armed force of the Union called the Sashastra Seema Bal for ensuring the security of the borders of India and performing such other duties as may be entrusted to it by the Central Government

(2)Subject to the provisions of this Act, the Force shall be constituted in such manner as may be prescribed and the conditions of service of the members of the Force shall be such as may be prescribed.

5. Control, direction, etc : (1) The general superintendence, direction and control of the Force shall vest in, and be exercised by, the Central Government and subject thereto and to the provisions of this Act and the rules made in this behalf, the command and supervision of the Force shall vest in an officer to be appointed by the Central Government as the Director-General of the Force.

(2) The Director-General shall, in the discharge of his duties under this Act, be assisted by such number of Additional Directors-General, Inspectors-General, Deputy Inspectors-General, Additional Deputy Inspectors-General, Commandants and other officers, as may be appointed by the Central Government.

6. Enrolment : The persons to be enrolled to the Force, the mode of enrolment and the procedure for enrolment shall be such as may be prescribed.

7. Liability for service outside India : Every member of the Force shall be liable to serve in any part of India as well as outside India.

8. Resignation and withdrawal from the post : No member of the Force shall be at liberty,—

(a) to resign his appointment during the term of his engagement; or

(b) to withdraw himself from all or any of the duties of his appointment, except with the previous permission in writing of the prescribed authority.

9. Tenure of service under the Act : Every person subject to this Act shall hold office during the pleasure of the President.

10. Termination of service by Central Government : Subject to the provisions of this Act and the rules, the Central Government may dismiss or remove from the service any person subject to this Act.

11. Dismissal, removal or reduction in rank by the Director- General and by other Officers : (1) The Director-General, or any Additional Director-General or Inspector-General may dismiss or remove from the service or reduce to a lower grade or rank any person subject to this Act other than an officer.

(2) An officer not below the rank of Deputy Inspector-General or any prescribed officer may dismiss or remove from the service any person under his command other than an officer or a subordinate officer of such rank as may be prescribed.

(3) Any such officer as is mentioned in sub-section (2) may reduce to a lower grade or rank any person under his command except an officer or a subordinate officer.

(4) The exercise of any power under this section shall be subject to the provisions of this Act and the rules.

12. Certificate of termination of service : A subordinate officer, or an under-officer or other enrolled person who is retired, discharged, released, removed or dismissed from the service shall be furnished by the officer, to whose command he is subject, with a certificate in Hindi or English language setting forth

(a) the authority terminating his service;

(b) the cause for such termination; and

(c) the full period of his service in the Force.

13. Restrictions respecting right to form association, freedom of speech, etc : (1) No person subject to this Act shall, without the previous sanction in writing of the Central Government or of the prescribed authority,—

(a) be a member of, or be associated in any way with, any trade union, labour union political association, or with any class of trade unions, labour unions or political associations; or

(b) be a member of, or be associated in any way with, any society, institution, association or organisation which is not recognised as part of the Force or is not of a purely social, recreational or religious nature; or

(c) communicate with the press or publish or cause to be published any book, letter or other document except where such communication or publication is in the bona fide discharge of his duties or is of a purely literary, artistic or scientific character or is of a prescribed nature.

Explanation.—If any question arises as to whether any society, institution, association or organisation is of a purely social, recreational or religious nature under clause (b) of this sub-section, the decision of the Central Government thereon shall be final.

(2) No person subject to this Act shall participate in, or address, any meeting or take part in any demonstration organised by any body of persons for any political purposes or for such other purposes as may be prescribed.

14. Redressal of grievances of persons other than officers : (1) Any person subject to this Act other than an officer who deems himself wronged by any superior or other officer may complain to the officer under whose command he is serving.

(2) When the officer complained against is the officer to whom any complaint should, under sub-section (1), be preferred, the aggrieved person may complain to such officer's next superior officer.

(3) Every officer receiving any such complaint shall make as complete an investigation into it as may be possible for giving full redress to the complainant, or when necessary, refer the complaint to a superior authority.

(4) The Director-General may revise any decision made under any of the foregoing sub-sections, but, subject thereto, such decision shall be final.

15. Redressal of grievances of officers : Any officer who deems himself wronged by his commanding officer or any other superior officer and who, on due application made to his commanding officer or such other superior officer, does not receive the redress to which he considers himself entitled, may complain to the Director-General or the Central Government through proper channel.

CHAPTER III
OFFENCES

16. Offences in relation to enemy and punishable with death : Any person subject to this Act who commits any of the following offences, namely:—

(a) shamefully abandons or delivers up any post, place or guard, committed to his charge or which it is his duty to defend; or

(b) intentionally uses any means to compel or induce any person subject to this Act or to any other law relating to military, naval, air force or any other armed force of the Union to abstain from acting against the enemy or to discourage such person from acting against the enemy; or

(c) in the presence of the enemy, shamefully casts away his arms, ammunition, tools or equipment or misbehaves in such manner as to show cowardice; or

(d) treacherously holds correspondence with, or communicates intelligence to, the enemy, terrorist or any person in arms against the Union; or

(e) directly or indirectly assists the enemy or terrorist with money, arms, ammunition, stores or supplies or in any other manner whatsoever; or

(f) in time of active operation against the enemy or terrorist, intentionally occasions a false alarm in action, camp, quarters, or spreads or causes to be spread reports calculated to create alarm or despondency; or

(g) in time of action leaves his commanding officer or other superior officer or his post, guard, picket, patrol or party without being regularly relieved or without leave; or

(h) having been captured by the enemy or made a prisoner of war, voluntarily serves with or aids the enemy; or

(i) knowingly larbours or protects an enemy, not being a prisoner; or

(J) being a sentry in time of active operation against the enemy or alarm, sleeps upon his post or is intoxicated; or

(k) knowingly does any act calculated to imperil the success of the Force or the military, naval or air force of India or any forces co-operating therewith or any part of such forces, shall, on conviction by a Force Court, be liable to suffer death or such less punishment as is in this Act mentioned.

17. Offences in relation to the enemy and not punishable with death : Any person subject to this Act who commits any of the following offences, namely:—

(a) is taken prisoner or captured by the enemy, by want of due precaution or through disobedience of order, or wilful neglect of duty, or having been taken prisoner or so captured fails to rejoin his service when able to do so; or

(b) without due authority holds correspondence with, or communicates intelligence to, the enemy or any person in league with the enemy or having come by the knowledge of any such correspondence or communication, wilfully omits to disclose it immediately to his commandant or other superior officer,

shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

18. Offences punishable more severely on active duty than at other times : Any person subject to this Act who commits any of the following offences, namely:—

(a) forces a safeguard, or forces or uses criminal force to a sentry; or

(b) breaks into any house or other place in search of plunder; or

(c) being a sentry, sleeps upon his post or is intoxicated; or

(d) without orders from his superior officer leaves his guard, picket, patrol or post; or

(e) intentionally or through neglect occasions a false alarm in camp or quarters, or spreads or causes to be spread reports calculated to create unnecessary alarm or despondency; or

(f) makes known the parole, watchword or countersign to any person not entitled to receive it; or knowingly gives a parole, watchword or a countersign different from what he received,

shall, on conviction by a Force Court,—

(i) if he commits any such offence when on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(ii) if he commits any such offence when not on active duty, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

19. Mutiny : Any person subject to this Act who commits any of the following offences, namely:—

(a) begins, incites, causes or conspires with any other person to cause any mutiny in the Force or in The military, naval or air force of India or any forces cooperating therewith; or

(b) joins in any such mutiny; or

(c) being present at any such mutiny, does not use his utmost endeavours to suppress the same or

(d) knowing or having reason to believe in the existence of any such mutiny, or of any intention to mutiny or of any such conspiracy, does not, without delay, give information thereof to his commanding officer or other superior officer; or

(e) endeavours to seduce any person in the Force or in the military, naval or air force of India or any forces co-operating therewith from his duty or allegiance to the Union,

shall, on conviction by a Force Court, be liable to suffer death or such less punishment as is in this Act mentioned.

20. Desertion and aiding desertion : (1) Any person subject to this Act who deserts or attempts to desert the service

shall, on conviction by a Force Court,—

(a) if he commits the offence when on active duty or when under orders for active duty, be liable to suffer death or such less punishment as is in this Act mentioned; and

(b) if he commits the offence under any other circumstances, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(2) Any person subject to this Act who knowingly harbours any such deserter shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned. -

(3) Any person subject to this Act who, being cognizant of any desertion or attempt at desertion of a person subject to this Act, does not forthwith give notice to his own or some other superior officer, or take any steps in his power to cause such person to be apprehended, shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

(4) For the purposes of this Act, a person deserts,

(a) if he absents from his unit or the place of duty at any time with the intention of not reporting back to such unit or place, or who, at any time and under any circumstances when absent from his unit or place of duty, does any act which shows that he has an intention of not reporting to such unit or place of duty;

(b) if he absents himself without leave with intent to avoid any active duty.

21. Absence without leave : Any person subject to this Act who commits any of the following offences, namely:—

(a) absents himself without leave; or

(b) without sufficient cause overstays leave granted to him; or

(c) being on leave of absence and having received information from the appropriate authority that any battalion or part thereof or any other unit of the Force, to which he belongs, has been ordered on active duty, fails, without sufficient cause, to rejoin without delay; or

(d) without sufficient cause fails to appear at the time fixed at the parade or place appointed for exercise or duty; or

(e) when on parade, or on the line of march, without sufficient cause or without leave from his superior officer, quits the parade or line of march; or

(f) when in camp or elsewhere, is found beyond any limits fixed or in any place prohibited, by any general, local or other order, without a pass or written leave from his superior officer; or

(g) without leave from his superior officer or without due cause, absents himself from any school or training institution when duly ordered to attend there, shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

22. Striking or threatening superior officer : Any person subject to this Act who commits any of the following offences, namely:—

(a) uses criminal force to or assaults his superior officer; or

(b) uses threatening language to such officer; or

(c) uses insubordinate language to such officer, shall, on conviction by a Force Court,—

(i) if such officer is at the time in the execution of his office or, if the offence is committed on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(ii) in other cases, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as - is in this Act mentioned:

Provided that in the case of an offence specified in clause (c), the imprisonment shall not exceed five years.

23. Disobedience to superior officer : (1) Any person subject to this Act who disobeys in such manner as to show a wilful defiance of authority any lawful command given personally by his superior officer in the execution of his office whether the same is given orally, or in writing or by signal or otherwise, shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

(2) Any person subject to this Act who disobeys any lawful command given by his superior officer shall, on conviction by a Force Court,—

(a) if he commits such offence when on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(b) if he commits such offence when not on active duty, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

24. Insubordination and obstruction : Any person subject to this Act who commits any of the following offences, namely:—

(a) being concerned in any quarrel, affray or disorder, refuses to obey any officer, though of inferior rank, who orders him into arrest, or uses criminal force to, or assaults, any such officer; or -

(b) uses criminal force to, or assaults any person, whether subject to this Act or not, in whose custody he is lawfully placed, and whether he is or is not his superior officer; or

(c) resists an escort whose duty it is to apprehend him or to have him in charge; or

(d) breaks out of barracks, camp or quarters; or

(e) neglects to obey any general, local or other order; or

(f) impedes the Force Police referred to in section 75 or any person lawfully acting on his behalf, or when called upon, refuses to assist in the execution of his duty -a Force Police or any person lawfully acting on his behalf, shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend, in the case of the offences specified in clauses (d) or (e), to two years, and in the case of the offences specified in the other clauses, to ten years, or in either case such less punishment as is in this Act mentioned.

25. False information on enrolment : Any person having become subject to this Act who is discovered to have knowingly given at the time of enrolment false information to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled, shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned. -

26. unbecoming conduct : Any officer or subordinate officer who behaves in a manner unbecoming of his position and the character expected of him shall, on conviction by a Force Court, be liable to be dismissed or to suffer such less punishment as is in this Act mentioned.

27. Certain forms of disgraceful conduct : Any person subject to this Act who commits any of the following offences, namely:—

(a) is guilty of any disgraceful conduct of a cruel, indecent or unnatural kind; or

(b) maligns, or feigns, or produces disease or infirmity in himself or intentionally delays his cure or aggravates his disease or infirmity; or

(c) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or that person,

shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

28. Ill-treating a subordinate : Any officer, subordinate officer or under-officer, who uses criminal force to or otherwise ill-treats any person subject to this Act, being his subordinate in rank or position, shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

29. Intoxication : (/)Any person subject to this Act who is found in a state of intoxication, whether on duty or not, shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to six months or such less punishment as is in this Act mentioned.

(2) For the purposes of sub-section (1), a person shall be deemed to be in a state of intoxication if, owing to the influence of alcohol or any drug whether alone, or any combination with any other substance, he is unfit to be entrusted with his duty or with any duty which he may be called upon to perform or, behaves in a disorderly manner or in a manner likely to bring discredit to the Force.

30. Permitting escape of person in custody : Any person subject to this Act who commits any of the following offences, namely:-

(a) when in command of a guard, picket, patrol, detachment or post, releases without proper authority, whether wilfully or without reasonable excuse, any person committed to his charge, or refuse to receive any prisoner or person so committed; or

(b) wilfully or without reasonable excuse allow to escape any person who is committed to his charge, or whom it is his duty to keep or guard,

shall, on conviction by a Force Court, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned, and if he has not acted wilfully, to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

31. Irregularity in connection with arrest or confinement : Any person subject to this Act who commits any of the following offences, namely:—

(a) unnecessarily detains a person in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation; or

(b) having committed a person to Force custody fails without reasonable cause to deliver at the time of such committal, or as soon as practicable, and in any case within forty-eight hours thereafter, to the officer or other person into whose custody the person arrested is commited, an account in writing signed by himself of the offence with which the person so committed is charged,

shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to one year or such less punishment as is in this Act mentioned.

32. Escape from custody : Any person subject to this Act, who, being in lawful custody, escapes or attempts to escape, shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

33. Offences in respect of property : Any person subject to this Act who commits any of the following offences, namely:—

(a) commits theft of any property belonging to the Government, or to any Force mess, band or institution, or to any person subject to this Act; or

(b) dishonestly misappropriates or converts to his own use any such property; or

(c) commits criminal breach of trust in respect of any such property; or

(d) dishonestly receives or retains any such property in respect of which any of the offences under clauses (a), (b) and (c) has been committed, knowing or having reasons to believe the commission of such offences; or

(e) wilfully destroys or injures any property of the Government entrusted to him; or

(f) does any other thing with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person, shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

34. Extortion and exaction : Any person subject to this Act who commits any of the following offences, namely:-

(a) commits extortion; or

(b) without proper authority exacts from any person money, provisions or service, shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

35. Making away with equipment : Any person subject to this Act who commits any of the following offences, namely:-

(a) makes away with, or is concerned in making away with, any arms, ammunition, equipment, instruments, tools, clothing or any other thing being the property of the Government issued to him for his use or entrusted to him; or

(b) loses by neglect anything mentioned in clause (a); or

(c) sells, pawns, destroys or defaces any medal or decoration granted to him,

shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may; extend, in the case of the offences specified in clause (a), to ten years, and in the case of the offences, specified in the other clauses, to five years, or in either case such less punishment as is in this Act mentioned.

36. Injury to property, etc : Any person subject to this Act who commits any of the following offences, namely:—

(a) destroys or injures any property mentioned in clause (a) of section 35, or any property belonging to any Force mess, band or institution, or to any person subject to this Act; or

(b) commits any act which causes damage to, or destruction of, any property of the Government by fire; or

(c) kills, injures, makes away with, ill-treats or loses, any animal entrusted to him,

shall, on conviction by a Force Court, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned; and if he has acted without reasonable excuse, to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

37. False accusations : Any person subject to this Act who commits any of the following offences, namely:—

(a) makes a false accusation against any person subject to this Act, knowing or having reason to believe such accusation to be false; or

(b) in making a complaint against any person subject to this Act makes any statement affecting the character of such person, knowing or having reason to believe such statement to be false, or knowingly and wilfully suppresses any material facts,

shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

38. Falsifying official documents and false declarations : Any person subject to this Act who commits any of the following offences, namely:—

(a) in any report, return, list, certificate, book or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy, knowingly makes, or is privy to the making of, any false or fraudulent statement; or

(b) in any document of the description mentioned in clause (a) knowingly makes, or is privy to the making of, any omission, with intent to defraud; or

(c) knowingly and with intent to injure any person, or knowingly and with intent to defraud, suppresses, defaces, alters or makes away with any document which it is his duty to preserve or produce; or

(d) where it is his official duty to make a declaration respecting any matter knowingly makes a false declaration; or

(e) obtains for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement,

shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

39. Signing in blank and failure to report : Any person subject to this Act who commits any of the following offences, namely:—

(a) when signing any document relating to pay, arms, ammunitions, equipment, clothing, supplies or stores, or any property of the Government fraudulently leaves in blank any material part for which his signature is a voucher; or

(b) refuses or by culpable neglect omits to make or send a report or return which it is his duty to make or send,

shall, on Conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

40.Offences relating to Force Court : Any person subject to this Act who commits any of the following offences, namely:—

(a) being duly summoned or ordered to attend as a witness before a Force Court, wilfully or without reasonable excuse, makes default in attending; or

(b) refuses to take an oath or make an affirmation legally required by a Force Court to be taken or made; or

(c) refuses to produce or deliver any document in his power or control legally required by a Force Court to be produced or delivered by him; or

(d) refuses, when a witness, to answer any question which he is by law bound to answer; and

(e) is guilty of contempt of the Force Court by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court,

shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

41. False evidence : Any person subject to this Act who, having been duly sworn or affirmed before any Force Court or other court competent under this Act to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

42. Unlawful detention of pay : Any officer, subordinate officer or an under-officer who, having received the pay of a person subject to this Act unlawfully detains or refuses to pay the same when due, shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

43. Violation of good order and discipline : Any person subject to this Act who is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and discipline of the Force

shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

44. Miscellaneous offences : Any person subject to this Act who commits any of the following offences, namely:----

(a) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority; or

(b) by defiling any place of worship, or otherwise, intentionally insults the religion, or wounds the religious feelings of any person; or

(c) attempts to commit suicide, and in such attempt does any act towards the commission of such offence; or

(d) being below the rank of subordinate officer, when off duty, appears without proper authority, in or about camp, or in or about, or when going to, or returning from, any town or bazaar, carrying a rifle, sword or other offensive weapon; or

(e) directly or indirectly accepts or obtains, or agrees to accept, or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion or any other -advantage or indulgence for any person in the service; or

(f) commits any offence against the property or person of any inhabitant of, or resident in, the country in which he is serving, shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

45. Attempt : Any person subject to this Act who attempts to commit any of the offences specified in sections 16 to 44 (both inclusive) and in such attempt does any act towards the commission of the offence shall, on conviction by a Force Court, where no express provision is made by this Act for the punishment of such attempt, be liable,

(a) if the offence attempted to be committed is punishable with death, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(b) if the offence attempted to be committed is punishable with imprisonment, to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

46. Abetment of offences that have been committed : Any person subject to this Act who abets the commission of any of the offences specified in sections 16 to 44 (both inclusive) shall, on conviction by a Force Court, if the Act abetted is committed in consequence of the abetment and no express provision is made by this Act for the punishment of such abetment, be liable to suffer the punishment provided for that offence or such less punishment as is in this Act mentioned.

47. Abetment of offences punishable with death and not committed : Any person subject to this Act who abets the commission of any of the offences punishable with death, under sections 16, 19 and sub-section (1) of section 20 shall, on conviction by a Force Court, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

48. Abetment of offences punishable with imprisonment and not committed : Any person subject to this Act who abets the commission of any of the offences specified in sections 16 to 44 (both inclusive) and punishable with imprisonment shall, on conviction by a Force Court, if that offence be not

committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

49. Civil offences : Subject to the provisions of section 50, any person subject to this Act who at any place in, or beyond, India commits any civil offence shall be deemed to be guilty of an offence against this Act and, if charged therewith under this section shall be liable to be tried by a Force Court and, on conviction, be punishable as follows, namely:—

(a) if the offence is one which would be punishable under any law in force in India with death, he shall be liable to suffer any punishment, assigned for the offence, by the aforesaid law and such less punishment as is in this Act mentioned; and

(b) in any other case, he shall be liable to suffer any punishment, assigned for the offence by the law in force in India, or imprisonment for a term which may extend to seven years, or such less punishment as is in this Act mentioned.

50. Civil offences not triable by a Force Court : A person subject to this Act who commits an offence of murder or culpable homicide not amounting to murder against, or of rape in relation to, a person not subject to this Act shall not be deemed to be guilty of an offence under this Act and shall not be tried by a Force Court, unless he commits any of the said offences—

(a) while on active duty; or

(b) at any place outside India; or

(c) at any place specified by (he Central Government by notification, in this behalf.

CHAPTER IV
PUNISHMENTS

51. Punishment by Force courts : (1) Punishments may be inflicted in respect of offences committed by persons subject to this Act and convicted by Force Courts according to the scale following, namely:—

(a) death;

(b) imprisonment which may be for the term of life or any other lesser term but excluding imprisonment for a term not exceeding three months in Force custody;

(c) dismissal or removal from the service;

(d) compulsory retirement from the service;

(e) imprisonment for a term not exceeding three months in Force custody;

(f) reduction to the ranks or to a lower rank or grade or a place in the list of their rank in the case of an under-officer;

(g) reduction to next lower rank in case of an officer or subordinate officer:

Provided that no officer shall be reduced to a rank lower than the one to which he was initially appointed;

(h) forfeiture of seniority of rank and forfeiture of all or any part of the service for the purpose of promotion;

(i) forfeiture of service for the purpose of increased pay or pension;

(j) fine, in respect of civil offences;

(k) severe reprimand or reprimand except in the case of persons below the rank of an under-officer;

(l) forfeiture of pay and allowances for a period not exceeding three months for an offence committed on active duty;

(m) forfeiture in the case of person sentenced to dismissal from the service of all arrears of pay and allowances and other public money due to him at the time of such dismissal;

(n) stoppage of pay and allowances until any proved loss or damage occasioned by the offence for which he is convicted is made good.

(2) Each of the punishments specified in sub-section (1) shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

52. Alternative punishments by Force Courts : Subject to the provisions of this Act, a Force Court may, on convicting a person subject to this Act of any of the offences specified in sections 16 to 48 (both inclusive) award either the particular punishment with which the offence is stated in the said sections to be punishable or, in lieu thereof, any one of the punishments lower in the scale set out in section 51 regard being had to the nature and degree of the offence.

53. Combination of punishments : A Force Court may award in addition to, or without, any other punishment, the punishment specified in clause (c) of sub-section (1) of section 51 or any one or more of the punishments specified in clauses (f) to (n) of that sub-section.

54. Retention in the Force of a person convicted on active duty : When on active duty an enrolled person has been sentenced by a Force Court to imprisonment whether combined with dismissal or not, the prescribed officer may direct that such person may be retained to serve in the ranks, and such service shall be reckoned as part of his term of imprisonment.

55. Punishments otherwise than by Force Courts : Punishments may also be inflicted in respect of offences committed by persons subject to this Act without the intervention of a Force Court in the manner stated in sections 56,58 and 59.

56. Minor punishments : (1) Subject to the provisions of section 57, a commanding officer of and above the rank of Commandant may, in the prescribed manner, proceed against a person subject to this Act, other than an officer or a subordinate officer, who is charged with an offence under this Act and award such person, to the extent prescribed, one or more of the following punishments, namely:—-

(a) imprisonment in Force custody up to twenty-eight days;

(b) detention up to twenty-eight days;

(c) confinement to the lines up to twenty-eight days;

(d) extra guards or duties;

(e) deprivation of any special position or special emoluments or any acting rank;

(j) severe reprimand or reprimand;

(g) fine up to fourteen days' pay in any one month;

(h) deductions from his pay and allowances of any sum required to make good any loss or damage occasioned by the offence for which he is punished.

(2) If any unit, training centre or other establishment of the Force is being temporarily commanded by an officer of the rank of Second-in-Command or Deputy Commandant, such officer shall have full powers of a commanding officer specified in sub-section (1).

(3)Subject to the provisions of section 57, a Deputy Commandant or an Assistant Commandant, commanding a company or a detachment or an outpost, shall have the power to proceed against a person subject to this Act, other than an officer or a subordinate officer, who is charged with an offence under this Act and award such person to the extent prescribed, one or more of the punishments specified in clauses (a) to (d) and (h) of sub-section (1)provided that the maximum limit of punishment awarded under each of the clauses (a), (b) and (c) shall not exceed fourteen days.

(4) A subordinate officer not below the rank of Sub-Inspector who is commanding a detachment or an outpost shall have the powers to proceed against a person subject to this Act, other than a subordinate officer or an under-officer, who is charged with an offence under this Act and award such person to the extent prescribed, one or more of the punishments specified under clauses (c) and (d) of sub-section (1) provided that the maximum limit of punishment awarded under clause (c) shall not exceed fourteen days.

57. Limit of punishment under section 56 : (1) In the case of an award of two or more of the punishments specified in clauses (a), (b), (c) and (d) of sub-section (1) of section 56, the punishments specified in clause (c) or clause (d)shall take effect only at the end of the punishment specified in clause (a) or clause(b).

(2) When two or more of the punishments specified in clauses (a), (b) and (c) of subsection (I) of section 56 are awarded to a person conjointly, or when already undergoing one or more of the said punishments, the whole extent of the punishments shall not exceed in the aggregate forty-two days.

(3)The punishments specified in clauses (a), (b) and (c) of sub-section (1) of section 56 shall not be awarded to any person who is of the rank of an under-officer or was, at the time of committing the offence for which he is punished, of such rank.

(4)The punishment specified in clause(f) of sub-section (I) of section 56 shall not be awarded to any person below the rank of an under-officer.

58. Punishment of persons of or below the rank of Commandant by Inspector General and others :(1) An officer not below the rank of Inspector-General may, in the prescribed manner, proceed against an officer of or below the rank of Commandant who is charged with an offence under this Act and award one or more of the following punishments, namely:

(a) forfeiture of seniority, or in the case of any of them whose promotion depends upon length of service, forfeiture of service for the purpose of promotion for a period not exceeding one year, but subject to the right of the accused previous to the award to elect to be tried by a Force Court;

(b) severe reprimand or reprimand;

(c) deduction from pay and allowances of any sum required to make good any proved loss or damage occasioned by the offence of which he is convicted.

(2) An officer not below the rank of Additional Deputy Inspector-General may, in the prescribed manner, proceed against a person of or below the rank of Subedar-Major or Inspector who is charged with an offence under this Act and award one or more of the following punishments, namely:—

(a) forfeiture of seniority, or in the case of any of them whose promotion depends upon the length of service, forfeiture of service for the purpose of promotion for a period not exceeding one year, but subject to the right of the accused previous to the award to elect to be tried by a Force Court;

(b) severe reprimand or reprimand;

(c) deduction from pay and allowances of any sum required to make good any proved loss or damage occasioned by the offence of which he is convicted.

(3) An officer not below the rank of Commandant may, in the prescribed manner, proceed against a person of or below the rank of Subedar-Major or Inspector who is charged with an offence under this Act and award any one or both of the following punishments, namely:—

(a) severe reprimand or reprimand;

(b) deduction from pay and allowances of any sum required to make good any proved loss or damage occasioned by the offence of which he is convicted.

59. Cancellation, variation or remittance of sentence : (1) In every case in which punishment has been awarded under section 58, certified true copies of the proceedings shall be forwarded, in the

prescribed manner, by the officer awarding the punishment to the prescribed superior authority who may, if the punishment awarded appears to him to be illegal, unjust or excessive, cancel, vary or remit the punishment and make such other direction as may be appropriate in the circumstances of the case.

(2)For the purpose of sub-section (1), a 'superior authority" means,—

(a) any officer superior in command to such officer who has awarded the punishment;

(b) in the case of punishment awarded by Director-General, the Central Government.

60. Collective fines : (1) Whenever any weapon or part of weapon or ammunition, forming part of the equipment of a unit, is lost or stolen, a commanding officer not below the rank of the Commandant of that unit may, after making such enquiry as he thinks fit, impose such collective fine as may be prescribed, upon the subordinate officers, under-officers and men of such unit, or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

(2) Such fine shall be assessed as a percentage of the pay of the individuals on whom it falls.

CHAPTER V

DEDUCTIONS FROM PAY AND ALLOWANCES

61. Deductions from pay and allowances of persons subject to this Act : (1) The following deductions may be made from the pay and allowances of an officer, namely:—

(a) all pay and allowances due to an officer for every day he absents himself without leave, unless a satisfactory explanation has been given to, and accepted by, the Inspector-General under whom he is for the time being serving;

(b) all pay and allowances for every day while he is in custody on a charge for an offence for which he is afterwards convicted by a criminal court or Force Court or by an officer exercising authority under section 58;

(c) any sum required to make good the pay of any person subject to this Act which he has unlawfully retained or unlawfully refused to pay;

(d) any sum required to make good such compensation for any expenses, loss, damage or destruction occasioned by the commission of an offence as may be determined by the Force Court by whom he is convicted of such offence or by an officer exercising authority under section 58;

(e) all pay and allowances ordered by Force Court;

(f) any sum required to be paid as fine awarded by a criminal court or a Force Court;

(g) any sum required to make good any loss, damage or destruction of public or Force property which, after due investigation, appears to the Inspector-General under whom the officer is for the time being serving, to have been occasioned by the wrongful act or negligence on the part of the officer;

(h) all pay and allowances forfeited by order of the Central Government if the officer is found by a court of inquiry constituted by the Director-General in this behalf, to have deserted to the enemy, or while in enemy hands, to have served with, or under the orders of, the enemy, or in any manner to have aided the enemy, or to have allowed himself to be taken prisoner by the enemy through want of due precaution or through disobedience of orders or wilful neglect of duty, or having been taken prisoner by the enemy, to have failed to rejoin his service when it was possible to do so;

(i) any sum required by order of the Central Government to be paid for the maintenance of his wife or his legitimate or illegitimate child or step child or towards the cost of any relief given by the said Government to the said wife or child.

(2) Subject to the provisions of section 63, the following deductions may be made from the pay and allowances of a person subject to this Act, other than an officer, namely:—

(a) all pay and allowances for every day of absence either on desertion or without leave or as a prisoner of war unless a satisfactory explanation has been given and accepted by his commanding officer and for every day of imprisonment awarded by a criminal court, Force Court or an officer exercising authority under section 56;

(b) all pay and allowances for every day while he is in custody on a charge for an offence of which he is afterwards convicted by a criminal court or Force Court or on a charge of absence without leave for which he is afterwards awarded imprisonment by an officer exercising authority under section 56;

(c) all pay and allowances for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by an offence under this Act committed by him;

(d) all pay and allowances for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence, such sum as may be specified by the order of the Director-General;

(e) all pay and allowances ordered by Force Court or by an officer exercising authority under any of the sections 56 and 58 to be forfeited or stopped;

(f) all pay and allowances for every day between his being recovered from the enemy and his dismissal from the service in consequence of his conduct when being taken prisoner by, or while in the hands of the enemy;

(g) any sum required to make good such compensation for any expenses, loss, damage or destruction caused by him to the Central Government or to any building or property or any private fund of the Force as may be awarded by his commanding officer;

(h) any sum required to pay a fine awarded by a criminal court, Force Court exercising jurisdiction under section 49 or an officer exercising authority under any of the sections 56 and 60;

(i) any sum required by order of the Central Government or any prescribed officer to be paid for the maintenance of his wife, or his legitimate or illegitimate child or step child or towards the cost of any relief given by the said Government to the said wife or child

(3) For computation of time of absence or custody under this section,—

(a) no person shall be treated as absent or in custody for a day unless the absence or custody has lasted, whether wholly in one day, or partly in one day and partly in another for six consecutive hours or upwards;

(b) any absence or custody for less than a day may be reckoned as absence or custody for a day, if such absence or custody prevented the absentee from fulfilling any duty as member of the Force which was thereby thrown upon some other person;

(c) absence or custody for twelve consecutive hours or upwards may be reckoned as absence or custody for the whole of each day during any portion of which the person was absent or in custody;

(d) a period of absence, or imprisonment, which commences before, and ends after, midnight may be reckoned as a day.

62. Pay and allowances during trial : In the case of any person subject to this Act who is in custody or under suspension from duty on a charge for an offence, the prescribed officer may direct that the whole or any part of the pay and allowances of such person shall be withheld, pending the result of his trial on the charge against him, in order to give effect to the provisions of clause (b) of subsections (1) and (2) of section 61.

63. Limit of certain deductions : The total deductions from the pay and allowances of a person made under clauses (e) and (g) to (i) of sub-section (2) of section 61 shall not, except where he is sentenced to dismissal or removal, exceed in any one month one-half of his pay and allowances for that month.

64. Deduction from public money due to a person : Any sum authorised by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

65. Pay and allowances of prisoner of war during inquiry into his conduct : Where the conduct of any person subject to this Act when being taken prisoner by, or while in the hands of, the enemy, is to be inquired into under this Act or any other law, the Director-General or any officer authorised by him may order that the whole or any part of the pay and allowances of such person shall be withheld pending the result of such inquiry.

66. Remission of deductions : Any deduction from pay and allowances authorised by this Act may be remitted in such manner and to such extent, and by such authority, as may from time to time be prescribed.

67. Provision for dependants of prisoner of war from his remitted deductions and pay and allowances : (1) In the case of all persons subject to this Act, being prisoners of war, whose pay and allowances have been forfeited under clause (h) of sub-section (1) or clause (a) of subsection (2) of section 61 but in respect of whom a remission has been made under section 66, it shall be lawful for the Central Government or the Director-General, when so authorised by the Central Government, to make provisions in respect of pay and allowances for any dependants of such persons and any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances.

(2)it shall be lawful for the Central Government or the Director-General, when so authorised by the Central Government, to make provisions for any dependants of any person subject to this Act who is a prisoner of war, or is missing, in respect of his pay and allowances.

68. Period during which a person is deemed to be a prisoner of war : For the purposes of section 67, a person shall be deemed to continue to be a prisoner of war until the conclusion of any inquiry into his conduct such as is referred to in section 65 and if he is dismissed from the service in consequence of such conduct, until the date of such dismissal.

CHAPTER VI

ARREST AND PROCEEDINGS BEFORE TRIAL

69. Custody of offenders : (1) Any person subject to this Act who is charged with any offence may be taken into Force custody under the order of any superior officer.

(2) Notwithstanding anything contained in sub-section (1), an officer may order into Force custody any other officer, though such other officer may be of a higher rank, if he engages in a quarrel, affray or disorder.

70. Duty of commanding officer in regard to detention : (1) It shall be the duty of every commanding officer to take care that a person under his command when charged with an offence is not detained in custody for more than forty-eight hours after the committal of such person into custody is reported to him, without the charge being investigated, unless investigation in the prescribed procedure, within that period seems to him to be impracticable having regard to the public service.

(2)The case of every person being detained in custody beyond a period of forty-eight hours, and the reasons therefor, shall be reported by the commanding officer to the next higher officer or such other officer to whom an application may be made to convene a Force Court for the trial of the person charged.

(3) In reckoning the period of forty-eight hours specified in sub-section (1), Sundays and other public holidays shall be excluded.

(4) The manner in which and the period for which any person subject to this Act may be taken into and detained in Force custody, pending the trial by any competent authority for any offence committed by him, shall be in such manner as may be prescribed.

71. Interval between committal and trial : In every case where any such person as is mentioned in section 69 and as is not on active duty, remains in such custody for a longer period than eight days without a Force Court for his trial being convened, a special report giving reasons for the delay shall be made by his commanding officer in the manner prescribed, and a similar report shall be forwarded at intervals of every eight days until a Force Court is convened or such person is released from custody.

72. Arrest by civil authorities : Whenever any person, subject to this Act, who is accused of an offence under this Act, is within the jurisdiction of any magistrate or police officer, such magistrate or police officer shall aid in the apprehension and delivery to Force custody of such person upon receipt of a written application to that effect signed by his commanding officer or an officer authorised by the commanding officer in that behalf.

73. Capture of deserters : (1) Whenever any person subject to this Act deserts, the commanding officer of the unit to which he belongs or is attached, shall give information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a magistrate. and shall deliver the deserter, when apprehended, into Force custody.

(2) Any police officer may arrest without warrant any person reasonably believed to be subject to this Act, and to be a deserter or to be travelling without authority, and shall bring him without delay before the nearest magistrate, to be dealt with according to law.

74. Inquiry into absence without leave : (1) When any person subject to this Act has been absent from duty without due authority for a period of thirty days, a court of inquiry shall, as soon as practicable, be appointed by such authority and in such manner as may be prescribed; and such court shall, on oath or affirmation administered in the prescribed manner, inquire in respect of the absence of the person, and the deficiency, if any, in the property of the Government entrusted to his care, or in any arms, ammunition, equipment, instruments, clothing or accessories; and if satisfied of the fact of such absence without due authority or other sufficient cause, the -court shall declare such absence and the period thereof and the said deficiency, if any, and the commanding officer of the unit to which the person belongs or is attached, shall make a record thereof in the prescribed manner.

(2) If the person declared absent does not afterwards surrender or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.

75. Force Police Officers : (1) The Director-General or any prescribed officer may appoint persons (in this Act referred to as Force Police) for discharging the functions specified in sub-sections (2) and (3).

(2) The duties of a person appointed under sub-section (1) are to take charge of persons confined for any offence, to preserve good order and discipline and to prevent breaches of the same by persons serving in, or attached to the Force.

(3) Notwithstanding anything contained in section 69, a person appointed under subsection (l) may, at any time, arrest and detain for trial any person subject to this Act who commits, or is charged with, an

offence, and may also carry into effect any punishment to be inflicted in pursuance of a sentence awarded by a Force Court or by an officer exercising authority under section 56 but shall not inflict any punishment on his own authority:

Provided that no officer shall be so arrested or detained otherwise than on the order of another officer.

CHAPTER VII
FORCE COURTS

76. Kinds of Force Courts : For the purposes of this Act, there shall be three kinds of Force Courts, namely:—

(a) General Force Courts;

(b) Petty Force Courts; and

(c) Summary Force Courts, which shall be convened in the manner prescribed.

77. Power to convene a General Force Court :A General Force Court may be convened by the Central Government or the Director General or by any officer empowered in this behalf by warrant of the Director-General.

78. Power to convene a Petty Force Court :A Petty Force Court may be convened by an officer having power to convene a General Force Court or by an officer empowered in this behalf by warrant of any such officer.

79. Warrants issued under sections 77 and 78 : A warrant issued under section 77 or section 78 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

80. Composition of a General Force Court : A General Force Court shall consist of not less than five officers.

81. Composition of a Petty Force Court : A Petty Force Court shall consist of not less than three officers.

82. Summary Force Court : (1) A Summary Force Court may be held by the commanding officer of any unit and he alone shall constitute the Court.

(2)The proceedings shall be attended throughout by two other persons who shall be officers or subordinate officers or one of either, and who shall not as such, be sworn or affirmed.

83. Dissolution of a Force Court : (1) If a Force Court after the commencement of a trial is reduced below the minimum number of officers required by this Act, it shall be dissolved.

(2)If, on account of the illness of the concerned Judge Attorney or, as the case may be, Deputy Judge Attorney-General or Additional Judge Attorney-General or of the accused before the finding, it is impossible to continue the trial, the Force Court shall be dissolved.

(3)The authority or officer who convened a Force Court may dissolve the same if it appears to him that the exigencies of the service or necessities of discipline render it impossible or inexpedient to continue the said Force Court.

(4)Where a Force Court is dissolved under this section, the accused may be tried again.

84. Powers of a General Force Court : A General Force Court shall have the power to try any person subject to this Act for any offence punishable there under and to pass any sentence authorised thereby.

85. Powers of a Petty Force Court : A Petty Force Court shall have the power to try any person subject to this Act other than an officer or a subordinate officer for any offence made punishable thereunder and to pass any sentence authorised by this Act other than a sentence of death or imprisonment for a term exceeding two years.

86. Powers of a Summary Force Court : (1) Subject to the provisions of sub-section (2), a Summary Force Court may try any offence punishable under this Act.

(2)When there is no grave reason for immediate action and reference can without detriment to discipline be made to the officer empowered to convene a Petty Force Court for the trial of the alleged offender, an officer holding a Summary Force Court shall not try without such reference any offence punishable under any of the sections 16, 19 and 49, or any offender against the officer holding the Court.

(3)A Summary Force Court may try any person subject to this Act and under the command of the officer holding the Court, except an officer or a subordinate officer.

(4)A Summary Force Court may pass any sentence which may be passed under this Act, except the sentence of death or of imprisonment for a term exceeding the limit specified in sub-section (5)

(5)The limit referred to in sub-section (4) shall be,—

(a)one year, if the officer holding the Force Court holds the rank not below that of a Commandant;

(b) three months, in any other case.

87. Prohibition of second trial : (1) When any person, subject to this Act has been acquitted or convicted of an offence by a Force Court or by a criminal court or has been dealt with under section 56 or section 58, he shall not be liable to be tried again for the same offence by a Force Court or dealt with under the said sections.

(2) When any person, subject to this Act, has been acquitted or convicted of an offence by a Force Court or has been dealt with under section 56 or section 58, he shall not be liable to be tried again by a criminal court for the same offence or on the same facts.

88. Period of limitation for trial : (1) Except as provided by sub-section (2), no trial by a Force Court of any person subject to this Act for any offence shall be commenced after the expiration of a period of three years from the date of such offence.

(2) The provisions of sub-section (I) shall not apply to a trial for an offence of desertion or for any of the offences mentioned in section 19.

(3) In the computation of the period of time mentioned in sub-section (1), any time spent by such person in evading arrest after the commission of the offence, shall be excluded.

89. Trial, etc., of offender who ceases to be subject to this Act : (1) Where an offence under this Act had been committed by any person while subject to this Act, and he has ceased to be so subject, he may be taken into and kept in Force custody and tried and punished for such offence as if he continued to be so subject.

(2) No such person shall be tried for an offence, unless his trial commences within six months after he had ceased to be subject to this Act:

Provided that nothing contained in this sub-section shall apply to the trial of any such person for an offence of desertion or for any of the offences mentioned in section 19 or shall affect the jurisdiction of a criminal court to try any offence triable by such court as well as by a Force Court.

90. Application of Act during term of sentence : (1) When a person subject to this Act is sentenced by a Force Court to imprisonment, this Act shall apply to him during the term of his sentence, though he is dismissed from the Force, or has otherwise ceased to be subject to this Act, and he may be kept, removed, imprisoned and punished as if he continued to be subject to this Act.

(2) When a person subject to this Act is sentenced by a Force Court to death, this Act shall apply to him till the sentence is carried out.

91. Place of trial etc : (1) Any person subject to this Act who commits any offence under this Act may be tried and punished for such offence at any place.

(2) The persons by whom an accused may be defended in a trial and appearance of such persons thereat may be as prescribed:

92. Choice between criminal court and Force Court : When a criminal court and a Force Court have each jurisdiction in respect of an offence, it shall be in the discretion of the Director-General, Additional Director-General or the Inspector-General or the Deputy Inspector-General or the Additional Deputy Inspector-General within whose command the accused person is serving or such other officer as may be prescribed, to decide before which court the proceedings shall be instituted, and if that officer decides that they shall be instituted before a Force Court, then he may direct that the accused person shall be detained in Force custody.

93. Power of criminal court to require delivery of offender : (1) When a criminal court having jurisdiction is of opinion that proceedings shall be instituted before itself in respect of any alleged offence, it may, by written notice, require the officer referred to in section 92 at his option, either to deliver over the offender to the nearest magistrate to be proceeded against according to law, or to postpone proceedings, pending a reference to the Central Government.

(2) In every such case the said officer shall either deliver over the offender in compliance with the requisition, or shall forthwith refer the question as to the court before which the proceedings are to be instituted, for the determination of the Central Government whose order upon such reference shall be final.

CHAPTER VIII
PROCEDURE OF FORCE COURTS

94. Presiding officer : At every General Force Court or Petty Force Court, the senior member shall be the presiding officer.

95. Judge Attorneys :(1) Every General Force Court shall, and every Petty Force Court may be attended by a Judge Attorney or a Deputy Judge Attorney-General or an Additional Judge Attorney-General, or, if no such officer is available, an officer approved by the Judge Attorney-General or by any officer authorised in this behalf by the Judge Attorney-General.

(2) The recruitment and conditions of service of Judge Attorney-General, Additional Judge Attorney-General, Deputy Judge Attorney-General and judge Attorney shall be such as may be prescribed.

96. Objections : (1) At all trials by a General Force Court or by a Petty Force Court, as soon as the Court is assembled, the names of the presiding officer and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the Court.

(2) If the accused objects to such officer, his objection and also the reply thereto of the officer objected to shall be heard and recorded, and the remaining officers of the Court shall, in the absence of the challenged officer decide on the objection.

(3) If the objection is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner, by another officer subject to the same right of the accused to object.

(4) When no objection is made, or when an objection has been made and disallowed, or the vacancy of an officer has been filled by another officer under sub-section (3) to which no objection is made or allowed, the Court shall proceed with the trial.

97. Oath of members Judge Attorneys and witnesses : (1) An oath or affirmation in the prescribed manner shall be administered to every member of the Force Court and to the Judge Attorney, or, as the case may be, the Deputy Judge Attorney-General or the Additional Judge Attorney-General or the officer approved under section 95. before the commencement of the trial.

(2) Every person giving evidence before a Force Court shall be examined after being duly sworn or affirmed in the prescribed form.

(3) The provisions of sub-section (2) shall, not apply where the witness is a child under twelve years of age and the Force Court is of opinion that though the witness understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation.

98. Voting by members : (1) Subject to the provisions of sub-sections (2) and- (3), every decision of a Force Court shall be passed by an absolute majority of votes; and where there is an equality of votes on either the finding or the sentence, the decision shall be in favour of the accused.

(2) No sentence of death shall be passed by a General Force Court without the concurrence of at least two-thirds of the members of the Court.

(3) In matters other than an objection or the finding or sentence, the presiding officer shall have a casting vote.

99. General rule as to evidence : The Indian Evidence Act, 1872, (1 of 1872) shall, subject to the provisions of this Act, apply to all proceedings before a Force court.

100. Judicial notice : A Force Court may take judicial notice of any matter within the general knowledge of the members as officers of the Force.

101. Summoning of witnesses : (1) The convening officer or the presiding officer of a Force Court or the Judge Attorney or, as the case may be, the Deputy Judge Attorney-General or the Additional Judge Attorney-General or the officer approved under section 95 or the commanding officer of the accused person may, by summons under his hand, require the attendance, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(2) In the case of a witness who is subject to this Act or any other Act relating to the armed forces of the Union, the summons shall be sent to his commanding officer and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the magistrate within whose jurisdiction he may be, or resides, and such magistrate shall give effect to the summons as if the witness were required in the court of such a magistrate.

(4) When a witness is required to produce any particular or other thing in his possession or power, the summons shall describe it with reasonable precision.

102. Documents exempted from production : (1) Nothing in section 101 shall be deemed to affect the operation of sections 123 and 124 of the Indian Evidence Act, 1872, (1 of 1872) or to apply to any letter, postcard, telegram or other document in the custody of the postal or telegraph authorities.

(2) If any document in such custody is, in the opinion of any District Magistrate, Chief Metropolitan Magistrate, Chief Judicial Magistrate, Court of Sessions or High Court wanted for the purpose of any Force Court, such Magistrate or Court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate or Court may direct.

(3) If any such document is, in the opinion of any other magistrate or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause such search to be made for, and to detain such document pending the orders of any such District Magistrate, Chief Metropolitan Magistrate, Chief Judicial Magistrate, Court of Sessions or High Court.

103. Commission for examination of witnesses : (1) Whenever, in the course of a trial by a Force Court, it appears to the Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or

inconvenience which, in the circumstances of the case, would be unreasonable, such Court may address the Judge Attorney-General in order that a commission to take the evidence of such witness may be issued.

(2) The Judge Attorney-General may then, if he thinks necessary, issue a commission to any Metropolitan Magistrate, or Judicial Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(3) The Magistrate to whom the commission is issued, or, if he is the Chief Metropolitan Magistrate, or Chief Judicial Magistrate, or such Metropolitan Magistrate, or Judicial Magistrate, as he appoints in this behalf, shall summon the witness before him or proceed to the place where the witness is, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in the trials of warrant-cases under the Code of Criminal Procedure, 1973. (2 of 1974)

(4) When the witness resides in a tribal area or in any place outside India, the commission may be issued in the manner specified in Chapter XXIII of the Code of Criminal Procedure, 1973. (2 of 1974)

104. Examination of a witness on commission : (1) The prosecutor and the accused person in any case in which a commission is issued under section 103 may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the Magistrate executing the commission shall examine the witness upon such interrogatories.

(2) The prosecutor and the accused person may appear before such Magistrate by counsel, or, except in the case of an accused person in custody, in person, and may examine, cross-examine and re-examine, as the case may be, the said witness.

(3) After a commission issued under section 103 has been duly executed, it shall be returned, together with the deposition of the witness examined there under to the Judge Attorney-General.

(4) On receipt of a commission, and deposition returned under sub-section (3), the Judge Attorney-General shall forward the same to the Court at whose instance the commission was issued or, if such Court has been dissolved, to any other Court convened for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to inspection by the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the Court.

(5) In every case in which a commission is issued under section 103, the trial may be adjourned for specified time reasonably sufficient for the execution and return of the commission.

105. Conviction for offences not charged : A person charged before a Force Court with—

(a) desertion may be found guilty of attempting to desert or of being absent without leave;

(b) attempting to desert may be found guilty of being absent without leave;

(c) using criminal force may be found guilty of assault;

(d) using threatening language may be found guilty of using insubordinate language;

(e) any one of the offences specified in clauses (a), (b), (c) and (d) of section 33 may be found guilty of any other of these offences with which he might have been charged;

(f) an offence punishable under section 49 may be found guilty of any other offence of which he might have been found guilty, if the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) were applicable.

(g) any offence under this Act may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment;

(h) any offence under this Act may be found guilty of having attempted or abetted the commission of that offence, although the attempt or abetment is not separately charged.

106. Presumption as to signatures : In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the service of the Government shall, on production, be presumed to have been duly signed by the person by whom and in the character in which it purports to have been signed, until the contrary is shown.

107. Enrolment paper : (1) Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolling having given the answers to questions which he is therein represented as having given.

(2) The enrolment of such person may be proved by the production of the original or a copy of this enrolment paper purporting to be certified to be a true copy by the office having the custody of the enrolment paper or service record.

108. Presumption as to certain documents : (1)A letter, return or other document respecting the service of any person in, or the dismissal, removal or discharge of any person from, any unit of the Force, or respecting the circumstances of any person not having served in, or belonged to, any unit of the Force, if purporting to be signed by or on behalf of the Central Government or the Director-General, or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document.

(2) A Force List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers, subordinate officers therein mentioned, and of any appointment held by them and of the battalion, unit, or branch of the Force to which they belong.

(3) Where a record is made in any battalion book in pursuance of this Act or of any rules made there under or otherwise in the discharge of official duties, and purports to be signed by the commanding officer or by the officers whose duty it is to make such record, such record shall be evidence of the facts therein stated.

(4) A copy of any record in any office of the Force purporting to be certified to be true copy by the officer having custody of such book shall he evidence of such record.

(5) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of any officer or other person, subject to this Act, or any unit of the Force, or has been apprehended by such officer or person, a certificate purporting to be signed by such officer, or by the commanding officer of the unit to which such person belongs or is attached, as the case may be, and stating the fact, date and place of such surrender or apprehension, and the manner in which he was dressed shall be evidence of the matters so stated.

(6) Where any person subject to this Act is being tried on a charge of desertion or of' absence without leave and such person has surrendered himself into the custody of, or has been apprehended by, a police officer not below the rank of an officer in charge of a police station, a certificate purporting to be signed by such police officer and stating the fact, date and place of such surrender or apprehension and the manner in which he was dressed shall be evidence of the matters so stated.

(7) (a) Any document purporting to be a report under the hand of a Government scientific expert to whom this sub-section applies, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Act, may be used as evidence In any inquiry, trial or other proceeding under this Act.

(b) The Force Court may, if it thinks fit, summon and examine any such expert as to the subject matter of his report.

(c) Where any such expert is summoned by a Force Court and he is unable to attend personally, he may, unless the Court has expressly directed him to appear personally, depute an officer who is conversant with the facts of the case ‘to depose in the Court on his behalf.

(d) This sub-section applies to the Government scientific expert, for the time being specified in sub-section (4) of section 293 of the Code of Criminal Procedure, 1973. (2 of 1974)

109. Reference by accused to Government officer : (1) If at any trial for desertion or absence without leave, over-staying leave or not rejoining when warned for service, the accused person states in his defence any sufficient or reasonable excuse for his unauthorised absence, and refers in support thereof to any officer in the service of the Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the Court shall address such officer and adjourn the proceedings until his reply is received.

(2) The written reply of any officer so referred to shall, if signed by him, be received in evidence and have the same effect as if made on oath before the Court.

(3) If the Court is dissolved before the receipt of such reply or if the Court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial.

110. Evidence of previous convictions and general character : (1) When any person subject to this Act has been convicted by a Force Court of any offence, such Force Court may inquire into, and receive, and record evidence of any previous convictions of such person, either by a Force Court or by a criminal court, or any previous award of punishment under section 56 or section 58, and may further inquire into and record the general character of such person and such other matters as may be prescribed.

(2) Evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, books of Force Courts or other official record; and it shall not be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(3) At a Summary Force Court, the officer holding the trial may, if he thinks fit, record any previous convictions against the offender, his general character, and such other matters as may be prescribed, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this section.

111. Lunacy of accused : (1) Whenever, in the course of a trial by a Force Court, it appears to the Court that the person charged is by reason of unsoundness of mind incapable of making his defence, or that he committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature Of the act or knowing that it was wrong or contrary to law, the Court shall record a finding accordingly.

(2) The presiding officer of the Court, or, in the case of a Summary Force Court, the officer holding the trial, shall forthwith report the case to the confirming officer, or to the authority empowered to deal with its finding under section 129, as the case may be.

(3) The confirming officer to whom the case is reported under sub-section (2) may, if he does not confirm the finding, take steps to have the accused person tried by the same or another Force Court for the offence with which he was charged.

(4) The authority to whom the finding of a Summary Force Court is reported under subsection (2) and a confirming officer confirming the finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner and shall report the case for the orders of the Central Government.

(5) On receipt of a report under sub-section (4), the Central Government may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

112. Subsequent fitness of lunatic accused for trial : Where any accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention under section 111, any officer prescribed in this behalf, may—

(a) if such person is in custody under sub-section (4) of section 111, on the report of a medical officer that he is capable of making his defence, or

(b) if such person is detained in jail under sub-section(5) of section 111, on a certificate of the Inspector-General of Prisons, and if such person is detained in a lunatic asylum under the said sub-section, on a certificate of any two or more of the visitors of such asylum and if he is detained in any other place under that sub-section, on a certificate of the prescribed authority, that he is capable of making his defence, take steps to have such person tried by the same or another Force Court for the offence with which he was originally charged or, if the offence is a civil offence, by a criminal court.

113.Transmission to Central Government of order under section 112 : A copy of every order made by an officer under section 112 for the trial of the accused shall forthwith be sent to the Central Government.

114. Release of lunatic accused : Where any person is in custody under sub-section (4) of section 111 or under detention under sub-section (5) of that Section,—

(a) if such person' is in custody under the said sub-section (4), on the report of a medical officer, or

(b) if such person is detained under the said sub-section (5), on a certificate from any of the authorities mentioned in clause (b) of section 112 that in the judgment of such officer or authority such person may be released without danger of his causing injury to himself or to any other person,

the Central Government may order that such person be released or detained in custody or transferred to a public lunatic asylum if he has not already been sent to such an asylum.

115. Delivery of lunatic accused to relatives : Where any relative or friend of any person who is in custody under sub-section (4) of section 111 or under detention under sub-section (5) of that section desires that he should be delivered to his care and custody, the Central Government may, upon application by such relative or friend and, on his giving security to the satisfaction of that Government that the person delivered shall be properly taken care of, and, prevented from doing injury to himself or to any other person,' and be produced for the inspection of such officer, and at such times and places, as the Central Government may direct, order such person to be delivered to such relative or friend.

116. Order for custody and disposal of property pending trial : When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a Force Court during a trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

117. Order for disposal of property regarding which offence is committed : (1) After the conclusion of a trial before any Force Court, the Court or the office confirming the finding or sentences of such Force Court, or any authority superior to such officer, or, in the case of Summary Force Court whose finding or sentences does not require confirmation, an officer not below the rank of Additional Deputy Inspector-General Within whose command the trial was held, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the Court or in its custody, or

regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(2) Where any order has been made under sub-section (1) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within India or not, be sent to a magistrate within whose jurisdiction such property for the time being is situated, and such magistrate shall thereupon cause the order to be carried into effect as if it were an order passed by him under the provisions of the Code of Criminal Procedure, 1973. (2 of 1974)

(3) In this section the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any person, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

118. Powers of Force Court in relation to proceedings under this Act : Any trial by a Force Court under the provisions of this Act shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 (45 of 1860) of the Indian Penal Code and the Force Court shall be deemed to be a Court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973. (2 of 1974)

119. Tender of pardon to accomplices : (1) With a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to an offence triable by a Force Court other than a Summary Force Court under this Act, the commanding officer, the convening officer or the Force Court, at any stage of investigation or inquiry into or the trial of, the offence, may tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relating to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof.

(2) The commanding officer or the convening officer who tenders pardon under subsection (1) shall record,

(a) his reasons for so doing.

(b) whether the tender was or was not accepted by the person to whom it was made, and shall, on application made by accused, furnish him with a copy of such record free of cost.

(3) Every person accepting a tender of pardon made under sub-section (1)

(a) shall be examined as a witness by the commanding officer of the accused and in the subsequent trial, if any;

(b) may be detained in Force custody until the termination of the trial.

120. Trial of person not complying with conditions of pardon : (1) Where, in regard to a person who has accepted a tender of pardon made under section 119, the Judge Attorney, or as the case may be, the Deputy Judge Attorney-General, or the Additional Judge Attorney-General, or the officer approved under section 95, certifies that in his opinion such person has, either by wilfully concealing anything essential or by giving false evidence, not complied with the conditions on which the tender was made, such person may be tried for the offence in respect of which the pardon was so tendered or for any other offence of which he appears to have been guilty in connection with the same matter, and also for the offence of giving false evidence:

Provided that such person shall not be tried jointly with any of the other accused.

(2) Any statement made by such person accepting the tender of pardon and recorded by his commanding officer or Force Court may be given in evidence against him at such trial.

(3) At such trial, the accused shall be entitled to plead that he has complied with the condition upon which such tender was made; in which case it shall be for the prosecution to prove that the condition has not been complied with.

(4) At such trial, the Force Court shall, before arraignment, ask the accused whether he pleads that he has complied with the conditions on which the tender of pardon was made.

(5) If the accused does so plead, the Court shall record the plea and proceed with the trial and it shall, before giving its finding on the charge, find whether or not the accused has complied with the conditions of the pardon, and, if it finds that he has so complied, it shall give a verdict of not guilty.

CHAPTER IX

CONFIRMATION AND REVISION OF PROCEEDINGS

121. Finding and sentence not valid unless confirmed : No finding or sentence of a General Force Court or a Petty Force Court shall be valid except so far as it may be confirmed as provided by this Act.

122. Power to confirm finding and sentence of General Force Court : The findings and sentences of General Force Courts may be confirmed by the Central Government or by any officer empowered in this behalf by warrant of the Central Government.

123. Power to confirm finding and sentence of Petty Force Court : The findings and sentences of a Petty Force Court may be confirmed by an officer having power to convene a General Force Court or by any officer empowered in this behalf by warrant of such officer.

124. Limitation of powers of confirming authority : A warrant issued under section 122 or section 123 may contain such restrictions, reservations or condition as the authority issuing it may think fit.

125. Power of confirming authority to mitigate, remit or commute sentences : Subject to such restrictions, reservations or conditions, as may be contained in any warrant issued under section 122 or section 123, a confirming authority may, when confirming the sentence of a Force Court, mitigate or remit the punishment thereby awarded or commute that punishment for any punishment or punishments lower in the scale laid down in section 51.

126. Confirming of findings and sentences on board a ship : When any person subject to this Act is tried and sentenced by a Force Court while on board a ship, the finding and sentence so far as not confirmed and executed on board the ship, may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation.

127. Revision of finding or sentence : (1) Any finding or sentence of a Force Court which requires confirmation may be once revised by order of the confirming authority and on such revision, the Court, if so directed by the confirming authority, may take additional evidence.

(2) The Court on revision, shall consist of the same officers as were present when the original decision was passed unless any of those officers are unavoidably absent.

(3) In case of such unavoidable absence the cause there of shall be duly certified in the proceedings and the Court shall proceed with the revision provided that, in the case of a General Force Court it consists of five officers and in the case of a Petty Force Court, of three officers.

128. Finding and sentence of a Summary Force Court : The finding and sentence of a Summary Force Court shall not require to be confirmed, but may be carried out forthwith.

129. Transmission of proceedings of Summary Force Court : The proceedings of every Summary Force Court shall be forwarded without delay to the officer not below the rank of Additional Deputy Inspector-General within whose command the trial was held, or to the prescribed officer, and such

officer, or the Director-General or any officer empowered by him in this behalf may, for reasons based on the merits of the case, but not on merely technical grounds, set aside the proceedings, or reduce the sentence to any other sentence which the Court might have passed.

130. Alteration of finding or sentence in certain cases : (1) Where a finding of guilty by a Force Court, which has been confirmed or which does not require confirmation, is found for any reason to be invalid or cannot be supported by the evidence, the authority which would have had power under section 142 to commute the punishment awarded by the sentence, if the finding had been valid may substitute a new finding and pass a sentence for the offence specified or involved in such finding:

Provided that no such 'substitution shall be made unless such finding could have been validly made by the Force Court on the charge and unless it appears that the Force Court must have been satisfied of the facts establishing the said offence.

(2) Where a sentence passed by a Force Court which has been confirmed, or which does not require confirmation, not being a sentence passed in pursuance of a new finding substituted under sub-section (1), is found for any reason to be invalid, the authority referred to in sub-section (1) may pass a valid sentence.

(3) The punishment awarded by a sentence passed under sub-section (i) or subsection (2) shall not be higher in the scale of punishments than, or in excess of, the punishment awarded by, the sentence for 'which a new sentence is substituted under this section.

(4) Any finding substituted, or any sentence passed, under this section shall, for the purposes of this Act and the rules, have effect as if it were a finding or sentence, as the case may be, of a Force Court.

131. Petition against order, finding or sentence of Force Court : (1) Any person subject to this Act who considers himself aggrieved by any order passed by any Force Court may present a petition to the officer or authority empowered to confirm any finding or sentence of such Force Court, and the confirming authority may take such steps as may be considered necessary to satisfy itself as to the correctness, legality or propriety of the order passed or as to the regularity of any proceeding to which the order relates.

(2) Any person subject to this Act who considers himself aggrieved by a finding or sentence of any Force Court which has been confirmed, may present a petition to the Central Government, the Director-General or any prescribed officer superior in command to the one who confirmed such finding or sentence, and the Central Government, the Director-General, or the prescribed officer, as the case may be, may pass such order thereon as it or he thinks fit.

132. Annulment of proceedings : The Central Government, the Director-General or any prescribed officer may annul the proceedings of any Force Court on the ground that they are illegal or unjust.

CHAPTER X

EXECUTION OF SENTENCES, PARDONS, REMISSIONS, ETC.

133. Execution of sentence of death : In executing a sentence of death, a Force Court shall, in its discretion direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

134. Commencement of sentence of imprisonment : Whenever any person is sentenced by a Force Court under this Act to imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the presiding officer, or in the case of a Summary Force Court, by the Court:

Provided that if for any reason beyond the control of the commanding officer or superior officer, the sentence of imprisonment cannot be executed in full or in part, the convict shall be liable to undergo the

whole or unexpired portion of sentence, as the case may be, when it becomes possible to carry out the same:

Provided further that the period of detention or confinement, if any, undergone by an accused person during the investigation, inquiry or trial of the case in which he is sentenced and before the date of which the original proceedings were signed shall be set off against the term of his sentence and the liability of such person to undergo imprisonment shall be restricted to the remainder, if any of the term of his sentence.

135. Execution of sentence of imprisonment :(1) Whenever any sentence of imprisonment is passed under this Act by a Force Court or whenever any sentence of death is commuted to imprisonment, the confirming officer or in case of a Summary Force Court the officer holding the Court or such other officer as may be prescribed shall, save as otherwise provided in sub-sections (3) and (4), direct that the sentence shall be carried out by confinement in a civil prison.

(2) When a direction has been made under sub-section (1), the commanding officer of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.

(3) In the case of a sentence of imprisonment for a period not exceeding three months and passed under this Act by a Force Court, the appropriate officer under sub-section (1) may direct that the sentence shall be carried out by confinement in Force custody instead of in a civil prison.

(4) On active duty, a sentence of imprisonment may be carried out by confinement in such place as the officer not below the rank of Additional Deputy Inspector-General within whose command the person sentenced is serving or, any prescribed officer may from time to time appoint.

136. Temporary custody of convict : Where a sentence of imprisonment is directed to be undergone in a civil prison, the convict may be kept in Force custody or in any other fit place till such time as it is possible to send him to a civil prison.

137. Execution of sentence of imprisonment in special cases : Whenever, in the opinion of an officer not below the rank of Additional Deputy Inspector-General within whose command the trial is held, any sentence or portion of a sentence of imprisonment cannot for special reasons conveniently be carried out in Force custody in accordance with the provisions of section 135, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

138. Conveyance of prisoner from place to place : A person under sentence of imprisonment may during his conveyance from place to place or when on board a ship, aircraft, or otherwise, be subjected to such restraint as is necessary for his safe conduct and removal.

139. Communication of certain orders to prison officers : Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil prison, a warrant in accordance with such order shall be forwarded by the officer making the order or his staff officer or such other person as may be prescribed, to the officer in charge of the prison in which such person is confined.

140. Recovery of fine : When a sentence of fine is imposed by a Force Court under section 49, a copy of such sentence signed and certified by the confirming officer, or where no confirmation is required, by the officer holding the trial may be sent to any magistrate in India, and such magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure. 1973, (2 of 1974) as if it were a sentence of fine imposed by such magistrate.

141. Informality or error in order or warrant : Whenever any person is sentenced to imprisonment under this Act, and is undergoing the sentence in any place or manner in which he might be confined under a lawful order or warrant in pursuance of this Act, the confinement of such person shall not be deemed to be illegal only by reason of informality or error in, or as respects the order, warrant or other document, or the authority by which, or in pursuance whereof such person was brought into, or, is confined in any such place, and any such order, warrant or document may be amended accordingly.

142. Pardon and remission : When any person subject to this Act has been convicted by a Force Court of any offence, the Central Government or the Director-General or, in the case of a sentence, which he could have confirmed or which did not require confirmation, an officer not below the rank of Additional Deputy Inspector-General within whose command such person at the time of conviction was serving, or the prescribed officer may,—

(a) either with or without conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishments awarded; or

(b) mitigate the punishment awarded; or

(c) commute such punishment for any less punishment or punishments mentioned in this Act; or

(d) either with or without conditions which the person sentenced accepts, release the person on parole.

143. Cancellation of conditional pardons, release on parole or remission : (1) If any condition on which a person has been pardoned or released on parole or a punishment has been remitted is, in the opinion of the authority which granted the pardon, release or remission, not fulfilled, such authority may cancel the pardon, release or remission, and thereupon the sentence of the Court shall be carried into effect as if such pardon, release or remission had not been granted.

(2)A person whose sentence of imprisonment is carried into effect under the provisions of sub-section (1) shall undergo such imprisonment only for the unexpired portion of his sentence.

144. Suspension of sentence of imprisonment : (1) Where a person subject to this Act is sentenced by a Force Court to imprisonment, the Central Government, the Director-General or any officer empowered to convene a General Force Court may suspend the sentence whether or not the offender has already been committed to prison or to Force custody.

(2) The authority or officer specified in sub-section (1) may, in the case of an offender so sentenced direct that until the orders of such authority or officer have been obtained, the offender shall not be committed to prison or to Force custody.

(3) The powers conferred by sub-sections (1) and (2) may be exercised in the case of any such sentence which has been confirmed, reduced or commuted.

145. Orders pending suspension of sentence : (1) Where the sentence referred to in section 144 is imposed by a Force Court other than a Summary Force Court, the confirming officer may, when confirming the sentence, direct that the offender be not committed to prison or to Force custody until the orders of the authority or officer specified in section 144 have been obtained

(2) Where a sentence of imprisonment is imposed by a Summary Force Court, the officer holding the trial may make the direction referred to in sub-section (1).

146. Release on suspension of sentence : where a sentence is suspended under section 144, the offender shall forthwith be released from custody.

147. Computation of period of sentence : Any period during which the sentence is under suspension shall be reckoned as part of the term of such sentence.

148. Order after suspension of sentence : The authority or officer specified in section 144 may, at any time while a sentence is suspended, order—

(a) that the offender be committed to undergo the unexpired portion of the sentence; or

(b) that the sentence be remitted.

149. Reconsideration of case after suspension of sentence : (1) Where a sentence has been suspended, the case may at any time, and shall at intervals of not more than four months, be reconsidered by the authority or officer not below the rank of an Additional Deputy Inspector-General duly authorised by the authority or officer specified in section 144.

(2) Where, on such reconsideration by the officer so authorised, it appears to 'him that the conduct of offender since his conviction has been such as to justify a remission of sentence, he shall refer the matter to the authority or officer specified in :section 144:

150. Fresh sentence after suspension : Where an offender, while a sentence on him is suspended under this Act, is sentenced for any other offence, then—

(a) if the further sentence is also suspended under this Act, the two sentences shall run concurrently;

(b) if the further sentence is for a period of three months or more and is not suspended under this Act, the offender shall also be committed to prison or Force custody for the unexpired portion of the previous sentence, but both sentences shall run concurrently; and

(c) if the further sentence is for a period of less than three months and is not suspended under this Act, the offender shall be so committed on that sentence only, and the previous sentence shall, subject to any order which may be passed under section 148 or section 149, continue to be suspended.

151. Scope of power of suspension of sentence : The powers conferred by sections 144 and 148 shall be in addition to, and not in derogation of, the power of mitigation, remission and commutation.

152. Effect of suspension and remission of sentence on dismissal : (1) Where in addition to any other sentence the punishment of dismissal has been awarded by a Force Court, and such other sentence is suspended under section 144, then, such dismissal shall not take effect until so ordered by the authority or officer specified in section 144.

(2) If such other sentence is remitted under section 148, the punishment of dismissal shall also be remitted.

CHAPTER XI
MISCELLANEOUS

153. Powers and duties conferrable and imposable on members of the Force : (1) The Central Government may, by general or special order published in the Official Gazette, direct that, subject to such conditions and limitations as may be specified in the order, any member of the Force may exercise or discharge such of the powers or duties under any Central Act as may be specified in the said order, being the powers and duties which, in the opinion of the Central Government, an officer of the corresponding or lower rank is by such Central Act empowered to exercise or discharge for the said purposes.

(2) The Central Government may, by general or special order published in the Official Gazette, confer or impose, with the concurrence of the State Government concerned, any of the powers or duties which may be exercised or discharged under a State Act by a police officer upon a member of the Force who, in the opinion of the Central Government, holds a corresponding or higher rank.

(3) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately

following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

154. Protection for acts of members of the Force : 1) In any suit or proceeding against any member of the Force for any act done by him in pursuance of a warrant or order of a competent authority, it shall be lawful for him to plead that such act was done by him under the authority of such warrant or order

(2) Any such plea may be proved by the production of the warrant or order directing the act, and if it is so proved, the member of the Force shall thereupon be discharged from liability in respect of the act so done by him, notwithstanding any defect in the jurisdiction of the authority which issued such warrant or order.

(3) Notwithstanding anything contained in any other law for the time being in force, any legal proceeding (whether civil or criminal) which may lawfully be brought against any member of the Force for anything done or intended to be done under the powers conferred by, or in pursuance of any provision of this Act or the rules, shall be commenced within three months after the act complained of was committed and not otherwise, and notice in writing of such proceeding and of the cause thereof shall be given to the defendant or his superior officer at least one month before the commencement of such proceeding.

155. Power to make rules : (1) The Central Government may, by notification, make rules for the purpose of carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-

(a) the manner of constitution of the Force and conditions of service of its members under section 4;

(b) superintendence, direction and control of the Force under section 5;

(c) the persons to be enrolled to the Force, mode of enrolment and procedure thereof under section 6;

(d) the authority, to whom resignation to be submitted and the permission for withdrawal from duty to be obtained from, under section 8;

(e) the dismissal, removal and reduction in rank of persons under section 11;

(f) the authority and other matters required to be prescribed under section 13;

(g) the amount and the incidence of fine to be imposed under section 60;

(h) the manner and extent of deductions from pay and allowances and the authority therefor under section 66;

(i) the procedure of investigation of an offence and the manner and period of detention of persons under section 70;

(j) the manner of making the report by the commanding officer in respect of delay in convening Force Court under section 71;

(k) the authority to appoint the court of inquiry and the manner of appointment thereof under section 74;

(l) the manner of convening Force Courts under section 76;

(m) the persons by whom an accused may be defended in a trial and appearance of such persons under section 91;

(n) the recruitment and conditions of service of the Judge Attorney-General, Deputy Judge Attorney-General, Additional Judge Attorney-General and Judge Attorney under section 95;

(o) the officer to annul proceedings of the Force Court under section 132; and

(p) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by the rules.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified, form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

156. Provisions as to existing Sashastra Seema Bal : (1) The Sashastra Seema Bal in existence at the commencement of this Act shall be deemed to be the Force constituted under this Act.

(2) The members of the Sashastra Seema Bal in existence at the commencement of this Act shall be deemed to have been appointed or, as the case may be, enrolled as such under this Act.

(3) Anything done or any action taken before the commencement of this Act in relation to the constitution of the Sashastra Seema Bal referred to in sub-section (1), in relation to any person appointed or enrolled, as the case may be, thereto, shall be as valid and as effective in law as if such thing or action was done or taken under this Act:

Provided that nothing in this sub-section shall render any person guilty of any offence in respect of anything done or omitted to be done by him before the commencement of this Act.

ಭಾರತದ ರಾಷ್ಟ್ರಪತಿಯವರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಆರ್. ಆಂಜಿನಿ

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ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 16 ಕೇಶಾಪ್ರ 2008, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 10ನೇ ಮಾರ್ಚ್ 2008

2007ನೇ ಸಾಲಿನ ಡಿಸೆಂಬರ್ 20ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟಿನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 1ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Rajiv Gandhi Institute of Petroleum Technology Act, 2007 (Act No. 54 of 2007) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

THE RAJIV GANDHI INSTITUTE OF PETROLEUM TECHNOLOGY ACT2007

AN

ACT

to declare the institution known as the Rajiv Gandhi Institute of Petroleum Technology to be an institution of national importance and to provide for its incorporation and for matters connected therewith.

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows :-

CHAPTER 1

PRELIMINARY

1. Short title and commencement : (1) This Act may be called the Rajiv Gandhi Institute of Petroleum Technology Act, 2007

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

2. Declaration of Rajiv Gandhi Institute of Petroleum Technology as an institution of national importance : Whereas the objects of the institution known as the Rajiv Gandhi Institute of Petroleum Technology, Jais, District — Rae Bareli, Uttar Pradesh are such as to make the institution one of national importance, it is hereby declared that the institution known as the Rajiv Gandhi Institute of Petroleum Technology is an institution of national importance.

3. Definitions : In this Act, unless the context otherwise requires,

(a) "appointed day" means the date appointed under sub-section (2) of section (1) for coming into force of this Act;

(b) "Board" means the Board of Governors of the Institute constituted under sub-section (1) of section 5;

(c) "Chairperson" means the Chairperson of the General Council;

(d) "Director" means the Director of the Institute appointed under section 20;

(e) "fund" means the fund of the Institute to be maintained under section 24;

(f) "General Council" means the General Council established under sub-section (1) of section 15;

(g) "Institute" means the Rajiv Gandhi Institute of Petroleum Technology incorporated under section 4;

(h) "President" means the President of the Board appointed under clause (a) of sub-section (1) of section 5;

(i) "Registrar" means the Registrar of the Institute referred to in section 21;

(j) "Senate" means the Senate of the Institute referred to in section 17;

(k) "Society" means the Rajiv Gandhi Institute of Petroleum Technology Society, Jais District—Rae Bareli, Uttar Pradesh registered under the Societies Registration Act, 1860; (21 of 1860) and

(l) "Statutes" and "Ordinances" mean, respectively, the Statutes and Ordinances of the Institute made under this Act.

CHAPTER II

THE IINSTITUTE

4. Incorporation of Institute : The Rajiv Gandhi Institute of Petroleum Technology shall be a body corporate having perpetual succession and a common seal with power. subject to the provisions of this Act. to acquire, hold and dispose of property and to contract, and shall, by that name, sue and be sued.

5. Constitution of Board of Governors : (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be constituted by the Central Government for the purposes of this Act, a Board to be known as the Board of Governors consisting of the following members, namely:—

(a) the President to be appointed by the Central Government in such manner as may be provided by the Statutes:

Provided that the first President shall be appointed by the Central Government on such terms and conditions as it deems fit, for a period not exceeding six months from the date the first Statutes comes into force.

(b) the Director of the Institute, ex officio;

(c) two persons from the Board of Directors of the promoting companies to be nominated by the Central Government.

Explanation.- For the purposes of this clause, promoting companies mean those companies contributing to the endowment fund referred to in section 25;

(d) one Professor of the Indian Institute of Technology, Kanpur to be nominated by the Director of that Institute;

(e) five eminent experts in the field of petroleum technology covering the entire hydrocarbon value chain having specialised knowledge or operational experience in respect of education, research, engineering and technology to be nominated by the General Council, in consultation with the Director of the Institute;

(f) two Professors of the Institute to be nominated by the Senate of the Institute; and

(g) one representative of the graduates of the Institute to be nominated by the Executive Committee of the Alumni Association.

(2) The Registrar of the Institute shall act as the Secretary of the Board.

(3) The Board shall ordinarily meet four times during a calendar year.

6. Term of office of, vacancies among, and allowances payable to members of Board : (1) Save as otherwise provided in this section, the term of office of the President or any other member of the Board, other than ex officio members shall be three years from the date of his appointment or nomination thereto.

(2) An ex officio member shall cease to be a member of the Board as soon as he vacates the office by virtue of which he is a member of the Board.

(3) The term of a member nominated to fill a casual vacancy shall continue for the remainder of the term of the member in whose place he has been nominated.

(4) Notwithstanding anything contained in this section, an outgoing member shall, unless the Central Government otherwise directs, continue in office until another person is nominated as a member in his place.

(5) The members of the Board shall be entitled to such allowances, if any, from the Institute, as may be provided for in the Statutes, but no member other than the member referred to in clause (f) of section 5 shall be entitled to any salary.

7. Vesting of properties : On and from the appointed day and subject to the other provisions of this Act, all properties which had vested in the, Society immediately before that day, shall, on and from that day, vest in the Institute.

8. Effect of incorporation of Institute : On and from the appointed day,—

(a) any reference to the Society in any contract or other instrument shall be deemed as a reference to the Institute;

(b) all the rights and liabilities of the Society shall be transferred to, and be the rights and liabilities of, the Institute; and

(c) every person employed by the Society immediately before the appointed day shall hold office or service in the Institute by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held the same if this Act had not been passed, and shall continue to be so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Statutes:

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the Institute in accordance with the terms of the contract with the employee or, if no provision is made therein in this behalf, on payment to him by the Institute of compensation equivalent to three months' remuneration in the case of permanent employees and one month's remuneration in the case of other employees.

9. Functions of Institute : The Institute shall perform the following functions, namely:

(i) nurture and promote quality and excellence in education and research in the area of petroleum and hydrocarbons;

(ii) provide for programmes and courses of instruction and research leading to the award of the Bachelors, Masters and Doctoral degrees in engineering and technology, management, sciences and arts in the area of petroleum and hydrocarbons;

(iii) grant, subject to such conditions as the Institute may determine, degrees, diplomas, certificates or other academic distinctions or titles at various academic levels to candidates who have attained the prescribed standard of proficiency as judged on the basis of examination or on any other basis of testing and evaluation and to withdraw any such degrees, diplomas, certificates or other academic distinctions or titles for good and sufficient reasons;

(iv) confer honorary degrees or other distinctions and to institute and award fellowships; scholarships, exhibitions, prizes and medals;

(v) lay down standards of admission to the Institute through an examination or any other method of testing and evaluation;

(vi) fix, demand and receive fees and other charges;

(vii) manage the content, quality, design and continuous evaluation of its academic and research programmes in a manner that earns accreditation of an international stature;

(viii) promote research and development for the benefit of oil, gas and petrochemical industry through the integration of teaching and research;

(ix) foster close educational and research interaction through networking with national, regional and international players in the oil, gas and petrochemical industry;

(x) co-operate with educational and research institutions in any part of the world having objects wholly or partly similar to those of the Institute by exchange of teachers and scholars, conduct of joint research, undertaking sponsored research and consultancy projects, etc;

(xi) organise national and international symposia, seminars and conferences in the area of petroleum and hydrocarbons;

(xii) establish, maintain and manage halls, residences and hostels for students;

(xiii) create academic, administrative, technical and other posts and to make appointments thereto;

(xiv) lay down conditions of service including a code of conduct for teachers and other categories of employees;

(xv) supervise, control and regulate the discipline of all categories of employees of the Institute and to make arrangements for promoting their health and general welfare;

(xvi) supervise and regulate the discipline of students and to make arrangements for promoting their health, general Welfare and cultural and corporate life;

(xvii) frame Statutes and Ordinances and to alter, modify or rescind the same;

(xviii) deal with any property belonging to or vested in the Institute in such manner as the Institute may deem fit for advancing its objects;

(xix) receive gifts, grants, donations or benefactions from the Central and State Governments and to receive bequests, donations, grants and transfers of movable or immovable properties from testators, donors, transferors, alumni, industry or any other person;

(xx) borrow money for the purposes of the Institute with or without security of the property of the Institute;

(xxi) integrate new technology in the classroom to encourage student-centric learning strategies and the development of an attitude for learning;

(xxii) develop and maintain an information resource centre of print and non-print knowledge resources in the field of petroleum sector covering the entire hydrocarbon value chain as well as other related areas of science and technology;

(xxiii) provide for further education to the working professionals and other employees of the Institute in the advanced areas of technology relating to oil, gas and complete hydrocarbon value chain; and

(xxiv) do all things, not specifically covered above, as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Institute.

10. Powers of Board : (1) Subject to the provisions of this Act, the Board shall be responsible for the general superintendence, direction and control of the affairs of the Institute and shall exercise all the powers not otherwise provided for by this Act, the Statutes and the Ordinances, and shall have the power to review the acts of the Senate.

(2) Without prejudice to the provisions of sub-section (1), the Board shall—

(a) take decisions on questions of policy relating to the administration and working of the Institute;

(b) lay down policy regarding the duration of the courses, nomenclature of the degrees and other distinctions to be conferred by the Institute;

(c) institute courses of study and to lay down standards of proficiency and other academic distinctions in respect of the courses offered by the Institute;

(d) lay down policy regarding the cadre structure, qualification, the method of recruitment and conditions of service of the teaching and research faculty as well as other employees of the Institute;

(e) guide resource mobilisation of the Institute and to lay down policies for investment;

(f) consider and approve proposals for taking loans for purposes of the Institute with or without security of the property of the Institute

(g) frame Statutes and to alter, modify or rescind the same;

(h) consider and pass resolutions on the annual report, the annual accounts and the budget estimates of the Institute for the next financial year as it thinks fit together with a statement of its development plans; and

(i) do all such things as may be necessary, incidental or conducive -to the attainment of all or any of the aforesaid powers.

(3) The Board shall have the power to appoint such committees as it considers necessary for the exercise of its powers and the performance of its duties under this Act.

(4) The Board shall have the power to establish campus and academic centres at any place within or outside India:

Provided that no campus or academic centre shall be established outside India without prior approval of the Central Government.

(5) Notwithstanding anything contained in section 4, the Board shall not dispose of in any manner, any immovable property of the institute without prior approval of the Central Government.

(6) The Board may, through a specific resolution to this effect, delegate any of its powers and duties to the President, Director, any officer or any authority of the Institute subject to reserving the right to review the action that may be taken under such delegated authority.

11. Institute to be open to all races, creeds and classes : (1) The Institute shall be open to persons of either sex and of whatever race, creed, caste or class, and no test or condition shall be imposed as to religious belief or profession in admitting students, appointing teachers or employees or in any other connection whatsoever.

(2) No bequest, donation or transfer of any property shall be accepted by the Institute which in the opinion of the Board involves conditions or obligations opposed to the spirit and object of this section.

12. Teaching at the Institute : All teaching and other academic activities at the Institute shall be conducted by or in the name of the Institute in accordance with the Statutes and the Ordinances made in this behalf.

13. Visitor : (1) The President of India shall be the Visitor of the Institute.

(2) The Visitor may appoint one or more persons to review the work and progress of the institute and to hold inquiries into the affairs thereof and to report thereon in such manner as the Visitor may direct.

(3) Upon receipt of any such report, the Visitor may take such action and issue such directions as he considers necessary in respect of any of the matters dealt with in the report and the Institute shall be bound to comply with such directions.

14. Authorities of Institute : The following shall be the authorities of the Institute, namely:-

(a) the General Council;

(b) the Board of Governors;

(c) the Senate; and

(d) such other authorities as may be declared by the Statutes to be the authorities of the Institute.

15. Establishment of General Council : (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established, for the purposes of this Act, a body to be known as the General Council.

(2) The General Council shall consist of the following members, namely:—

(a) the Secretary, Ministry of Petroleum and Natural Gas in the Central Government, ex officio, who shall be the Chairperson;

(b) the Chairman, Indian Oil Corporation Limited, ex officio;

(c) the Chairman and Managing Director, Hindustan Petroleum Corporation Limited, ex officio;

(d) the Chairman and Managing Director, Bharat Petroleum Corporation Limited, ex officio;

(e) the Chairman and Managing Director, Oil and Natural Gas Corporation, ex officio;

(f) the Chairman and Managing Director, Gas Authority of India Limited, ex officio;

(g) the Chairman and Managing Director, Oil India Limited, ex officio;

(h) the Director General of Hydrocarbons, ex officio; -

(I) the Principal Advisor (Energy), Planning Commission, ex officio;

(j) the Executive Director, Oil Industry Safety Directorate, ex officio;

(k) the Director, Indian Institute of Technology, Kanpur, ex officio;

(l) the Director, University Institute of Chemical Technology, Mumbai University, ex officio;

(m) the Secretary, Oil Industry Development Board, ex officio;

(n) the President of the Board, ex officio; -

(o) the Director of the Institute, ex officio; and

(p) persons, not less than two but not exceeding four, representing the private entities in the field of petroleum sector operating in the country, to be nominated by the Chairperson.

(3) The Registrar of the Institute shall be the ex officio Secretary of the General Council.

(4) The Chairperson shall have the power to invite any person who is not a member of the General Council to attend its meeting but such invitee shall not be entitled to vote.

16. Powers and functions of General Council : Subject to the provisions of this Act, the General Council shall have the following powers and functions, namely:-

(a) review from time to time the broad policies and programmes of the institute and to suggest measures for the improvement and development thereof;

(b) consider the annual statement of accounts including a balance-sheet together with the audit report thereto and the observations of the Board of Governors thereon and to suggest improvements in fiscal management of the Institute;

(c) review and evaluate overall quality and effectiveness of the Institute and to advise measures for improvement of performance and for confidence-building between the Institute and its stakeholders;

(d) provide credibility, aura, connectivity and contacts for the Institute especially with regard to student placement and resource mobilisation; and

(e) advise the Institute and its Board in respect of the advanced areas of technology in the field of petroleum sector covering the entire hydrocarbon value chain as well as in respect of any other matter that may be referred to it for advice by the Board.

17. Senate : The Senate of the Institute shall be the principal academic body and its composition shall be such as may be provided by the Statutes.

18. Functions of Senate : Subject to the provisions of this Act, the Statutes and the Ordinances, the Senate shall have the control and general regulation, and be responsible for the maintenance of standards of instruction, education and examination in the Institute and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Statutes.

19. President of Board : (1) The President shall ordinarily preside at the meetings of the Board and at the Convocations of the Institute.–

(2) It shall be the duty of the President to ensure that the decisions taken by the Board are implemented

(3) The President shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes.

20. Director : (1) The Director of the Institute shall be appointed by the Central Government in such manner and on such terms and conditions as may be provided by the Statutes:

Provided that the first Director shall be appointed by the Central Government on such terms and conditions as it deems fit, for a period not exceeding six months from the date the first Statutes comes into force.

(2) The Director shall be the principal academic and executive officer of the Institute and shall be responsible for the proper administration and academic performance of the Institute and for imparting of instruction and maintenance of discipline therein.

(3) The Director shall submit annual reports and accounts to the Board.

(4) The Director shall exercise such other powers and perform such other duties as may be assigned to him by this Act, the Statutes or the Ordinances.

21. Registrar : (1) The Registrar of the Institute shall be appointed in such manner and on such terms and conditions as may be provided by the Statutes and shall be the custodian of records, the common seal, the funds of the Institute and such other property of the Institute as the Board shall commit to his charge.

(2) The Registrar shall act as the Secretary of the General Council, the Board, the Senate and such committees as may be provided by the Statutes.

(3) The Registrar shall be responsible to the Director for the proper discharge of his functions.

(4) The Registrar shall exercise such other powers and perform such other duties as may be assigned to him by this Act, the Statutes or by the Director.

22. Powers and duties of other authorities and officers : The powers and duties of authorities and officers, other than those hereinbefore mentioned, shall be determined by the Statutes.

23. Grants by Central Government : For the purpose of enabling the institute to discharge its functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the institute in each financial year such sums of money and in such manner as it may think fit.

24. Fund of Institute : (1) The Institute shall maintain a fund to which shall be credited—

(a) all moneys provided by the Central Government;

(b) all fees and other charges;

(c) all moneys received by the Institute by way of grants, gifts, donations, benefactions, bequests or transfers; and

(d) all moneys received by the Institute in any other manner or from any other source.

(2) All moneys credited to the fund shall be deposited in such banks or invested in such manner as may be decided by the Board.

(3) The fund shall be applied towards meeting the expenses of the Institute including expenses incurred in the exercise of its powers and discharge of its duties under this Act.

25. Setting up of endowment fund : Notwithstanding anything contained in section 24, the Institute may,—

(a) set up an endowment fund and any other fund for a specified purpose; and

(b) transfer money from its fund to the endowment fund or any other fund.

26. Accounts and audit : (1) The Institute shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance-sheet, in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Institute shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in Connection with such audit shall be payable by the Institute to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Institute shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the Institute.

(4) The accounts of the Institute as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before cash House of Parliament

27. Pension and provident fund : (1) The Institute shall constitute for the benefit of its employees, including the Director, such pension, insurance and provident fund scheme as it deems fit, in such manner and subject to such conditions as may be provided by the Statutes.

(2) Where any such provident fund has been so constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925 (19 of 1925) shall apply to such fund as if it were a Government provident fund.

28. Appointments: All appointments of the staff of the Institute, except that of the Director. shall be made in accordance with the procedure laid down in the Statutes,

(a) by the Board, if the appointment is made on the academic staff in the post of Assistant Professor or above or if the appointment is made on the non-academic staff in any cadre, the maximum of the pay-scale for which is the same or higher than that of Assistant Professor; and

(b) by the Director, in any other case.

29. Statutes : Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely

(a) the formation of departments of teaching and other academic units;

(b) the institution of fellowships, scholarships, exhibitions, medals and prizes;

(c) the classification of posts, term of office, method of appointment, powers and duties and other terms and conditions of service of the officers of the Institute including the President, the Director, the Registrar, and such other officers as may be declared as officers of the Institute by the Statutes;

(d) the classification, the method of appointment and the determination of the terms and conditions of service of officers, teachers and other staff of the Institute;

(e) the reservation of posts for the Scheduled Castes, the Scheduled Tribes and other categories of persons as may be determined by the Central Government;

(f) the constitution of pension, insurance and provident funds for the benefit of the officers, teachers and other staff of the Institute;

(g) the constitution, powers and duties of the other authorities of the Institute referred in clause (d) of section 14;

(h) the delegation of power;

(i) the code of conduct, disciplinary actions thereto for misconduct including removal from service of employees on account of misconduct and the procedure for appeal against the actions of an officer or authority of the Institute;

(j) the conferment of honorary degrees;

(k) the establishment and maintenance of halls, residences and hostels;

(l) the authentication of the orders and decisions of the Board; and

(m) any other matter which by this Act is to be, or may be, provided by the Statutes.

30. Statutes how made : (1) The first Statutes of the Institute shall be framed by the Central Government and a copy of the same shall be laid, as soon as may be after it is made, before each House of Parliament.

(2) The Board may, from time to time, make new or additional Statutes or may amend or repeal the Statutes in the manner hereafter in this section provided.

(3) A new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the previous approval of the General Council who may assent thereto or with hold assent or remit it to the Board for consideration

(4) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the General Council.

31. Ordinances : Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

(a) the admission of the students to the Institute;

(b) the reservation for the Scheduled Castes, the Scheduled Tribes and other categories of persons;

(c) the courses of study to be laid down for all degrees, diplomas and certificates of the Institute;

(d) the conditions under which students shall be admitted to the degree, diploma and certificate courses and to the examinations of the Institute and the eligibility conditions for awarding the same;

(e) the conditions of award of the fellowships, scholarships, exhibitions, medals and prizes; -

(f) the conditions and manner of appointment and duties of examining bodies, examiners and moderators;

(g) the conduct of examinations;

(h) the maintenance of discipline among the students of the institute;

(i) the fees to be charged for courses of study at the Institute and for admission to the examinations;

(j) the conditions of residence of students of the Institute and the levying of the fees for residence in the halls and hostels and of other charges; and

(k) any other matter which by this Act or the Statutes is to be, or may be, provided for by the Ordinances.

32. Ordinances how made : (1) Save as otherwise provided in this section, Ordinances shall be made by the Senate.

(2) All Ordinances made by the Senate shall have effect from such date as it may direct, but every Ordinance so made shall be submitted, as soon as may be, to the Board and shall be considered by the Board at its next succeeding meeting.

(3) The Board shall have power by resolution to modify or cancel any such Ordinance and such Ordinance shall from the date of such resolution stand modified accordingly or cancelled, as the case may be.

33. Conduct of business by authorities of Institute : The authorities of the Institute may have their own rules of procedure, consistent with the provisions of this Act, the Statutes and the Ordinances for the conduct of their own business and that of the committees, if any, appointed by them and not provided for by this Act, the Statutes or the Ordinances.

34. Tribunal of Arbitration : (1) Any dispute arising out of a contract between the Institute and any of its employees shall, at the request of the employee concerned or at the instance of the Institute, be referred to a Tribunal of Arbitration consisting of one member appointed by the Institute, one member nominated by the employee, and an umpire appointed by the Visitor.

(2) The decision of the Tribunal of Arbitration shall be final.

(3) No Suit or proceeding shall lie in any court in respect of any matter which is required by sub-section (1) to be referred to the Tribunal of Arbitration. –

(4) The Tribunal of Arbitration shall have power to regulate its own procedure.

(5) Nothing in any law for the time being in force relating to arbitration shall apply to arbitrations under this section.

CHAPTER III
MISCELLANEOUS

35. Acts and proceedings not to be invalidated by vacancies : No act of the Institute or the General Council or Board or Senate or any other body set up under this Act or the Statutes, shall be invalid merely by reasons of—

(a) any vacancy in, or defect in the constitution thereof, or

(b) any defect in the election, nomination or appointment of a person acting as a member thereof, or

(c) any irregularity in its procedure not affecting the merits of the case.

36. Grant of degrees, etc., by Institute : Notwithstanding anything contained in the University Grants Commission Act, 1956 (3 of 1956) or in any other law for the time being in force, the Institute shall have power to grant degrees and other academic distinctions and titles under this Act.

37. Sponsored schemes : Notwithstanding anything in this Act, whenever the Institute receives funds from any Government, the University Grants Commission or any other agency including industry sponsoring a research scheme, a consultancy assignment, a teaching programme or a chaired professorship or a scholarship, to be executed or endowed at the Institute,—

(a) the amount received shall be kept by the Institute separately from the fund of the Institute and utilised only for the purpose of the scheme; and

(b) the staff required to execute the same shall be recruited in accordance with the terms and conditions stipulated by the sponsoring organisation:

Provided that any money remaining unutilised under clause (a) shall be transferred to the endowment fund created under section 25.

38. Power to remove difficulties : (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions or give such directions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the appointed day.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

39. Transitional provisions : Notwithstanding anything contained in this Act,—

(a) the Board of Governors of the Society functioning as such immediately before the commencement of this Act shall continue to so function until a new Board is constituted for the Institute under this Act, but on the constitution of a new Board under this Act, the members of the Board holding office before such constitution shall cease to hold office; and –

(b) until the first Statutes and the Ordinances are made under this Act, the Statutes and the Ordinances of the Rajiv Gandhi Institute of Petroleum Technology Society, or notification as in force, immediately before the commencement of this Act, shall continue to apply to the Institute in so far as they are not inconsistent with the provisions of this Act.

40. Statutes Ordinances and notifications to be published in the Official Gazette and to be laid before Parliament : (1) Every Statute and every Ordinance made or notification issued under this Act shall be published in the Official Gazette.

(2) Every Statute and every Ordinance made or notification issued under this Act shall be laid, as soon as may be after it is-made, before each House of Parliament, while it is in session, for a total period of thirty days which May be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinance or notification or. both Houses agree that the Statute, Ordinance or notification should not be made or issued, the Statute, Ordinance or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or notification.

(3) The power to make the Statutes, Ordinances or notifications shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act, to the Statutes, Ordinances, notifications or any of them but no retrospective effect shall be given to any Statute, Ordinance or notification so as to prejudicially affect the interests of any person to whom such Statute, Ordinance or notification may be applicable. –

ಭಾರತದ ರಾಷ್ಟ್ರಪತಿಯವರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್. ಆಂಜಿನಿ
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

ಪಿ.ಆರ್. 25

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 17 ಕೇಶಾಪ್ರ 2008, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 10ನೇ ಮಾರ್ಚ್ 2008

2007ನೇ ಸಾಲಿನ ಡಿಸೆಂಬರ್ 31ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟಿನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 1ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (Act No. 56 of 2007) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT, 2007

AN

ACT

to provide for more effective provisions for the maintenance and welfare of parents and senior citizens guaranteed and recognized under the Constitution and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows :-

CHAPTER 1

PRELIMINARY

1. Short title extent, Application and commencement : (1) This Act may be called the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

(2) It Extends to the whole of India except the State of Jammu and Kashmir and it applies also to citizens of India outside India.

(3) It shall come into force in a State on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions : In this Act, unless the context otherwise requires,—

(a) "children" includes son, daughter, grandson and grand-daughter but does not include a minor;

(b) "maintenance" includes provision for food, clothing, residence and medical attendance and treatment;

(c) "minor" means a person who, under the provisions of the Indian Majority Act, 1875, (9 of 1875) is deemed not to have attained the age of majority;

(d) "parent" means father or mother whether biological, adoptive or step father or step mother, as the case may be, whether or not the father or the mother is a senior citizen;

(e) "prescribed" means prescribed by rules made by the State Government under this Act;

(f) "property" means property of any kind, whether movable or immovable, ancestral or self acquired, tangible or intangible and includes rights or interests in such property;

(g) "relative" means any legal heir of the childless senior citizen who is not a minor and is in possession of or would inherit his property after his death;

(h) "senior Citizen" means any person being a citizen of India, who has attained the age of sixty years or above;

(i) "State Government", in relation to a Union territory, means the administrator thereof appointed under article 239 of the Constitution;

(j) "Tribunal" means the Maintenance Tribunal constituted under section 7;

(k) "welfare" means provision for food, health care, recreation centres and other amenities necessary for the senior citizens.

3. Act to have overriding effect : The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act, or in any instrument having effect by virtue of any enactment other than this Act.

CHAPTER II

MAINTENANCE OF PARENTS AND SENIOR CITIZENS

4. Maintenance of parents and senior citizens : (1) A senior citizen including parent who is unable to maintain himself from his own earning or out of the property owned by him, shall be entitled to make an application under section 5 in case of—

(i) parent or grand-parent, against one or more of his children not being a minor;

(ii) a childless senior citizen, against such of his relative referred to in clause (g) of section 2.

(2) The obligation of the children or relative, as the case may be, to maintain a senior citizen extends to the needs of such citizen so that senior citizen may lead a normal life.

(3) The obligation of the children to maintain his or her parent extends to the needs of such parent either father or mother or both, as the case may be, so that such parent may lead a normal life.

(4) Any person being a relative of a senior citizen and having sufficient means shall maintain such senior citizen provided he is in possession of the property of such senior citizen or he would inherit the property of such senior citizen:

Provided that where more than one relatives are entitled to inherit the property of a senior citizen, the maintenance shall be payable by such relative in the proportion in which they would inherit his property.

5. Application for maintenance : (1) An application for maintenance under section 4, may be made—

(a) by a senior citizen or a parent, as the case may be; or

(b) if he is incapable, by any other person or organisation authorised by him; or

(c) the Tribunal may take cognizance *suo motu*.

Explanation.- For the purposes of this section "organisation" means any voluntary association registered under the Societies Registration Act, 1860, (21 of 1860) or any other law for the time being in force.

(2) The Tribunal may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this section, order such children or relative to make a monthly allowance for the interim maintenance of such senior citizen including parent and to pay the same to such senior citizen including parent as the Tribunal may from time to time direct.

(3) On receipt of an application for maintenance under sub-section (1) after giving notice of the application to the children or relative and after giving the parties an opportunity of being heard, hold an inquiry for determining the amount of maintenance.

(4) An application filed under sub-section (2) for the monthly allowance for the maintenance and expenses for proceeding shall be disposed of within ninety days from the date of the service of notice of the application to such person:

Provided that the Tribunal may extend the said period, once for a maximum period of thirty days in exceptional circumstances for reasons to be recorded in writing.

(5) An application for maintenance under sub-section (1) may be filed against one or more persons:

Provided that such children or relative may implead the other person liable to maintain parent in the application for maintenance.

(6) Where a maintenance order was made against more than one person, the death of one of them does not affect the liability of others to continue paying maintenance.

(7) Any such allowance for the maintenance and expenses for proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or expenses of proceeding, as the case may be.

(8) If, children or relative so ordered fail, without sufficient cause to comply with the order, any such Tribunal may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person for the whole, or any part of each month's allowance for the maintenance and expenses of proceeding, as the case may be, remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made whichever is earlier:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Tribunal to levy such amount within a period of three months from the date on which it became due.

6. Jurisdiction and procedure : (1) The proceedings under section 5 may be taken against any children or relative in any district—

(a) where he resides or last resided; or (b) where children or relative resides.

(2) On receipt of the application under section 5, the Tribunal shall issue a process for procuring the presence of children or relative against whom the application is filed.

(3) For securing the attendance of children or relative the Tribunal shall have the power of a Judicial Magistrate of first class as provided under the Code of Criminal Procedure, 1973. (2 of 1974)

(4) All evidence to such proceedings shall be taken in the presence of the children or relative against whom an order for payment of maintenance is proposed to be made, and shall be recorded in the manner prescribed for summons cases:

Provided that if the Tribunal is satisfied that the children or relative against whom an order for payment of maintenance is proposed to be made is wilfully avoiding service, or wilfully neglecting to attend the Tribunal, the Tribunal may proceed to hear and determine the case ex parte.

(5) Where the children or relative is residing out of India, the summons shall be served by the Tribunal through such authority, as the Central Government may by notification in the official Gazette, specify in this behalf.

(6) The Tribunal before hearing an application under section 5 may, refer the same to a Conciliation Officer and such Conciliation Officer shall submit his findings within one month and if amicable settlement has been arrived at, the Tribunal shall pass an order to that effect.

Explanation.- For the purposes of this sub-section "Conciliation Officer" means any person or representative of an organisation referred to in Explanation to sub-section (1) of' section 5 or the Maintenance Officers designated by the State Government under subsection (1) of section 18 or any other person nominated by the Tribunal for this purpose.

7. Constitution of Maintenance Tribunal : (1) The State Government shall within a period of six months from the. date of the. commencement of this Act, by notification in the Official Gazette, constitute for each Subdivision one or more Tribunals as may be specified in the notification for the purpose of adjudicating and deciding upon the order for maintenance under section 5

(2) The Tribunal shall be presided over by an officer not below the rank of Sub-Divisional Officer of a State.

(3) Where two or more Tribunals are constituted for any area, the State Government may, by general or special order, regulate the distribution of business among them.

8. Summary procedure in case of inquiry : (1) In holding any inquiry under section 5, the Tribunal may, subject to any rules that may be prescribed by the State Government in this behalf, follow such summary procedure as it deems fit.

(2) The Tribunal shall have all the powers of a Civil Court for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and of compelling the discovery and production of documents and material objects and for such other purposes as may be prescribed; and the Tribunal shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. (2 of 1974)

(3) Subject to any rule that may be made in this behalf, the Tribunal may, for the purpose of adjudicating and deciding upon any claim for maintenance, choose one or more persons possessing special knowledge of any matter relevant to the inquiry to assist it in holding the inquiry.

9. Order for maintenance: (1) If children or relatives, as the case may be, neglect or refuse to maintain a senior citizen being unable to maintain himself, the Tribunal may, on being satisfied of such neglect or refusal, order such children or relatives to make a monthly allowance at such monthly rate for the maintenance of such senior citizen, as the Tribunal may deem fit and to pay the same to such senior citizen as the Tribunal may, from time to time, direct.

(2) The maximum maintenance allowance which may be ordered by such Tribunal shall be such as may be prescribed by the State Government which shall not exceed ten thousand rupees per month.

10. Alteration in allowance : (1) On proof of misrepresentation or mistake of fact or a change in the circumstances of any person, receiving a monthly allowance under section 9, for the maintenance ordered under that section to pay a monthly allowance for the maintenance, the Tribunal may make such alteration, as it thinks fit, in the allowance for the maintenance.

(2) Where it appears to the Tribunal that, in consequence of any decision of a competent Civil Court, any order made under section 9 should be cancelled or varied, it shall cancel the order or, as the case may be, vary the same accordingly.

11. Enforcement of order of maintenance : (1) A copy or the order of maintenance and including the order regarding expenses of proceedings, as the case may be, shall be given without payment of any fee to the senior citizen or to parent, as the case may be, in whose favour it is made and such order may be enforced by any Tribunal in any place where the person against whom it is made, such Tribunal on being satisfied as to the identity of the parties and the non-payment of the allowance, or as the case may be, expenses, due.

(2) A maintenance order made under this Act shall have the same force and effect as an order passed under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) and shall be executed in the manner prescribed for the execution of such order by that Code.

12. Option regarding maintenance in certain cases : Notwithstanding anything contained in Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) where a senior citizen or a parent is entitled for maintenance under the said Chapter and also entitled for maintenance under this Act may, without prejudice to the provisions of Chapter IX of the said Code, claim such maintenance under either of those Acts but not under both.

13. Deposit of maintenance amount : When an order is made under this Chapter, the children or relative who is required to pay any amount in terms of such order shall, within thirty days of the date of announcing the order by the Tribunal, deposit the entire amount ordered in such manner as the Tribunal may direct.

14. Award of interest where any claim is allowed : Where any Tribunal makes an order for maintenance made under this Act, such Tribunal may direct that in addition to the amount of maintenance, simple interest shall also be paid at such rate and from such date not earlier than the date of making the application as may be determined by the Tribunal which shall not be less than five per cent, and not more than eighteen per cent.:

Provided that where any application for maintenance under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) is pending before a Court at the commencement of this Act, then the Court shall allow the withdrawal of such application on the request of the parent and such parent shall be entitled to file an application for maintenance before the Tribunal

15. Constitution of Appellate Tribunal : (1) The State Government may, by notification in the Official Gazette, constitute one Appellate Tribunal for each district to hear the appeal against the order of the Tribunal.

(2) The Appellate Tribunal shall be presided over by an officer not below the rank of District Magistrate.

16. Appeals : (1) Any senior citizen or a parent, as the case may be, aggrieved by an order of a Tribunal may, within sixty days from the date of the order, prefer an appeal to the Appellate Tribunal :

Provided that on appeal, the children or relative who is required to pay any amount in terms of such maintenance order shall continue to pay to such parent the amount so ordered, in the manner directed by the Appellate Tribunal:

Provided further that the Appellate Tribunal may, entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) On receipt of an appeal, the Appellate Tribunal shall, cause a notice to be served upon the respondent.

(3) The Appellate Tribunal may call for the record of proceedings from the Tribunal against whose order the appeal is preferred.

(4) The Appellate Tribunal may, after examining the appeal and the records called for either allow or reject the appeal.

(5) The Appellate Tribunal shall, adjudicate and decide upon the appeal filed against the order of the Tribunal and the order of the Appellate Tribunal shall be final:

Provided that no appeal shall be rejected unless an opportunity has been given to both the parties of being heard in person or through a duly authorised representative.

(6)The Appellate Tribunal shall make an endeavour to pronounce its order in writing within one month of the receipt of an appeal.

(7)A copy of every order made under sub-section (5) shall be sent to both the parties free of cost.

17. Right to legal representation : Notwithstanding anything contained in any law, no party to a proceeding before a Tribunal or Appellate Tribunal shall be represented by a legal practitioner

18. Maintenance Officer : (1) The State Government shall designate the District Social Welfare Officer or an officer not below the rank of a District Social Welfare Officer, by whatever name called as Maintenance Officer.

(2) The Maintenance Officer referred to in sub-section (1), shall represent a parent if he so desires, during the proceedings of the Tribunal, or the Appellate Tribunal, as the case may be.

CHAPTER III

ESTABLISHMENT OF OLDAGE HOMES

19. Establishment of oldage homes : (1) The State Government may establish and maintain such number of oldage homes at accessible places, as it may deem necessary, in a phased manner, beginning with at least one in each district to accommodate in such homes a minimum of one hundred fifty senior citizens who are indigent.

(2) The State Government may, prescribe a scheme for management of oldage homes, including the standards and various types of services to be provided by them which are necessary for medical care and means of entertainment to the inhabitants of such homes.

Explanation.-For the purposes of this section, “indigent” means any senior citizen who is not having sufficient means, as determined by the State Government, from time to time, to maintain himself.

CHAPTER IV

PROVISIONS FOR MEDICAL CARE OF SENIOR CITIZEN

20. Medical support for senior citizen : The State Government shall ensure that, -

(i) the Government hospitals or hospitals funded fully or partially by the Government shall provide beds for all senior citizens as far as possible;

(ii) separate queues be arranged for senior citizens;

(iii) facility for treatment of chronic, terminal and degenerative diseases is expanded for senior citizens;

(iv) research activities for chronic elderly diseases and ageing is expanded;

(v) there are earmarked facilities for geriatric patients in every district hospital duly headed by a medical officer with experience in geriatric care.

CHAPTER V

PROTECTION OF LIFE AND PROPERTY OF SENIOR CITIZEN

21. Measures for publicity awareness, etc., for welfare of senior citizen : The State Government shall, take all measures to ensure that—

(i) the provisions of this Act are given wide publicity through public media including the television, radio and the print, at regular intervals;

(ii) the Central Government and State Government Officers, including the police officers and the members of the judicial service, are given periodic sensitization and awareness training on the issues relating to this Act;

(iii) effective co-ordination between the services provided by the concerned Ministries or Departments dealing with law, home affairs, health and welfare, to address the issues relating to the welfare of the senior citizens and periodical review of the same is conducted.

22. Authorities who may be specified for implementing the provisions of this Act : (1) The State Government may, confer such powers and impose such duties on a District Magistrate as may be necessary, to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer as may be prescribed.

(2) The State Government shall prescribe a comprehensive action plan for providing protection of life and property of senior citizens.

23. Transfer of property to be void in certain circumstances : (1) Where any senior citizen who, after the commencement of this Act, has transferred by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical needs, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of the transferor be declared void by the Tribunal.

(2) Where any senior citizen has a right to receive maintenance out of an estate and such estate or part thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the right, or if the transfer is gratuitous; but not against the transferee for consideration and without notice of right.

(3) If, any senior citizen is incapable of enforcing the rights under sub-sections (1) and (2), action may be taken on his behalf by any of the organisation referred to in Explanation to sub-section (1) of section 5.

CHAPTER VI

OFFENCES AND PROCEDURE FOR TRIAL

24. Exposure and abandonment of senior citizen : Whoever, having the care or protection of senior citizen leaves, such senior citizen in any place with the intention of wholly abandoning such senior citizen, shall be punishable with imprisonment of either description for a term which may extend to three months or fine which may extend to five thousand rupees or with both.

25. Cognizance of offences : (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974) every offence under this Act shall be cognizable and bailable.

(2) An offence under this Act shall be tried summarily by a Magistrate.

CHAPTER VII

MISCELLANEOUS

26. Officers to be public servants : Every officer or staff appointed to exercise functions under this Act shall be deemed to be a public servant within the meaning of section 21 (45 of 1860) of the Indian Penal Code.

27. Jurisdiction of civil courts barred : No Civil Court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any Civil Court in respect of anything which is done or intended to be done by or under this Act.

28. Protection of action taken in good faith : No suit, prosecution or other legal proceeding shall lie against the Central Government, the State Governments or the local authority or any officer of the Government in respect of anything which is done in good faith or intended to be done in pursuance of this Act and any rules or orders made thereunder.

29. Power to remove difficulties : If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.

30. Power of Central Government to give directions : The Central Government may give directions to State Governments as to the carrying into execution of the provisions of this Act.

31. Power of Central Government to review : The Central Government may make periodic review and monitor the progress of the implementation of the provisions of this Act by the State Governments.

32. Power of State Government to make rules : (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner of holding inquiry under section 5 subject to such rules as may be prescribed under sub-section (1) of section 8;

(b) the power and procedure of the Tribunal for other purposes under subsection (2) of section 8;

(c) the maximum maintenance allowance which may be ordered by the Tribunal under sub-section (2) of section 9;

(d) the scheme for management of oldage homes, including the standards and various types of services to be provided by them which are necessary for medical care and means of entertainment to the inhabitants of such homes under sub-section (2) of section 19;

(e) the powers and duties of the authorities for implementing the provisions of this Act, under sub-section (1) of section 22;

(f) a comprehensive action plan for providing protection of life and property of senior citizens under sub-section (2) of section 22;

(g) any other matter which is to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of State Legislature, where it consists of two houses or where such legislature consists of one House, before that House.

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ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 20 ಕೇಶಾಪ್ರ 2008, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 12ನೇ ಮಾರ್ಚ್ 2008

2007ನೇ ಸಾಲಿನ ಡಿಸೆಂಬರ್ 28ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟಿನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ (I)ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Armed Forces Tribunal Act, 2007 (Act No. 55 of 2007) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

THE ARMED FORCES TRIBUNAL ACT 2007

AN

ACT

to provide for the adjudication or trial by Armed Forces Tribunal of disputes and complaints with respect to commission, appointments, enrolment and conditions of service in respect of persons subject to the Army Act, 1950, the Navy Act, 1957 and the Air Force Act 1950 and also to provide for appeals arising out of orders, findings or sentences of court martial held under the said Acts and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows :-

CHAPTER 1

PRELIMINARY

1. Short title and commencement : (1) This Act may be called the Armed Forces Tribunal Act, 2007.

(2) It shall come into force on such date as the Central Government may, by notification, appoint.

2. Applicability of the Act : (1) The provisions of this Act shall apply to all persons subject to the army Act, 1950, (46 of 1950) the Navy Act, 1957 (62 of 1957) and the Air Force Act, 1950 (45 of 1950)

(2) This Act shall also apply to retired personnel subject to the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957) or the Air Force Act, 1950 (45 of 1950) including their dependants, heirs and successors, in so far as it relates to their service matters.

3. Definitions : In this Act, unless the context otherwise requires,—

(a) "Administrative Member" means a member of the Tribunal who is not a Judicial Member within the meaning of clause (g);

(b) "application" means an application made under sub-section (2) of section 14;

(c) "appointed day" means the date with effect from which the Tribunal is established by notification under section 4;

(d) "Bench" means a Bench of the Tribunal;

(e) "Chairperson" means the Chairperson of the Tribunal;

(f) "court martial" means a court martial held under the Army Act, '1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957) including the disciplinary courts constituted under the Act or the Air Force Act, 1950; (45 of 1950)

(g) "Judicial Member" means a member of the Tribunal appointed as such under this Act, and includes the Chairperson, who possesses any of the qualifications specified in sub-section (2) of section 6;

(h) "Member" means a member (whether Judicial or Administrative) of the Tribunal and includes the Chairperson;

(i) "military custody" means the arrest or confinement of a person according to the usages of the service and includes naval or air force custody;

(j) "notification" means a notification published in the Official Gazette;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "President" means the President of India;

(m) "rules" means the rules made under this Act;

(n) "service" means the service within or outside India;

(o) "service matters", in relation to the persons subject to the Army Act, 1950 (46 of 1950) the Navy Act, 1957 (62 of 1957) and the Air Force Act, 1950 (45 of 1950) mean all matters relating to the conditions of their service and shall include—

(i) remuneration (including allowances), pension and other retirement benefits;

(ii) tenure, including commission, appointment, enrolment, probation, confirmation, seniority, training, promotion, reversion, premature retirement, superannuation, termination of service and penal deductions;

(iii) summary disposal and trials where the punishment of dismissal is awarded;

(iv) any other matter, whatsoever, but shall not include matters relating to—

(i) orders issued under section 18 of the Army Act, 1950 (46 of 1950) sub-section (1) of section 15 of the Navy Act, 1957 (62 of 1957) and section 18 of the Air Force Act, 1950; (45 of 1950) and

(ii) transfers and postings including the change of place or unit on posting whether individually or as a part of unit, formation or ship in relation to the persons subject to the Army Act, 1950 (46 of 1950) the Navy Act, 1957 (62 of 1957) and the Air Force Act, 1950 (45 of 1950);

(iii) leave of any kind;

(iv) summary court martial except where the punishment is of dismissal or imprisonment for more than three months;

(p) "summary disposals and trials" means summary disposals and trials held under the Army Act, 1950 (46 of 1950) the Navy Act, 1957 (62 of 1957) and the Air Force Act, 1950; (45 of 1950)

(q) "Tribunal': means the Armed Forces Tribunal established under section 4.

CHAPTER II

ESTABLISHMENT OF TRIBUNAL AND BENCHES THEREOF

4. Establishment of Armed Forces Tribunal : The Central Government shall, by notification, establish a Tribunal to be known as the Armed Forces Tribunal to exercise the jurisdiction, powers and authority conferred on it by or under this Act.

5. Composition of Tribunal and Benches thereof : (1) The Tribunal shall consist of a Chairperson, and such number of Judicial and Administrative Members as the Central Government may deem fit and, subject to the other provisions of this Act, the jurisdiction, powers and authority of the Tribunal may be exercised by Benches there of.

(2) Subject to the other provisions of this Act, a Bench shall consist of one Judicial Member and one Administrative Member.

(3) Notwithstanding anything contained in sub-section (1), the Chairperson—

(a) may, in addition to discharging the functions of a Judicial Member of the Bench to which he is appointed, discharge the functions of an Administrative Member of any other Bench;

(b) may transfer a Member from one Bench to another Bench;

(c) may, for the purpose of securing that any case or cases, which having regard to the nature of the questions involved, requires or require, in his opinion, or under the rules made under this Act, to be decided by a Bench composed of more than two members, issue such general or special orders, as he may deem fit:

Provided that every Bench constituted in pursuance of this clause shall include at least one Judicial Member and one Administrative Member.

(4) Subject to the other provisions of this Act, the Benches of the Tribunal shall ordinarily sit at Delhi (which shall be known as the Principal Bench), and at such other places as the Central Government may, by notification, specify.

6. Qualifications for appointment of Chairperson and other Members : (1) A person shall not be qualified for appointment as the Chairperson unless he is a retired Judge of the Supreme Court or a retired Chief Justice of a High Court.

(2) A person shall not be qualified for appointment as a Judicial Member unless he is or has been a Judge of a High Court.

(3) A person shall not be qualified for appointment as an Administrative Member unless—

(a) he has held or has been holding the rank of Major General or above for a total period of at least three years in the Army or equivalent rank in the Navy or the Air Force; and

(b) he has served for not less than one year as Judge Advocate General in the Army or the Navy or the Air Force, and is not below the rank of Major General, Commodore and Air Commodore respectively.

Explanation.- When a serving person is appointed as an Administrative Member, he shall have retired from service prior to assuming such appointment.

7. Appointment of Chairperson and other Members : (1) Subject to the provisions of this section, the Chairperson and other Members of the Tribunal shall be appointed by the President:

Provided that no appointment under this sub-section shall be made except after consultation with the Chief Justice of India.

(2) The President may appoint one or more Members of the Tribunal to be the Vice-Chairperson, or, as the case may be, the Vice-Chairpersons, thereof.

8. Term of office : The Chairperson or a Member shall hold office for a term of four years from the date on which he enters upon his office and shall be eligible for re-appointment:

Provided that no Chairperson shall hold office as such after he has attained,—

(a) in case he has been a Judge of the Supreme Court, the age of seventy years; and

(b) in case he has been the Chief Justice of a High Court, the age of sixty-five years:

Provided further that no other Member shall hold office as such Member after he has attained the age of sixty-five years.

9. Resignation and removal : (1) The Chairperson or a Member may, by notice in writing under his hand addressed to the President, resign his office:

Provided that the Chairperson or a Member shall, unless he is permitted by the President to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The Chairperson or a Member shall not be removed from his office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by a sitting Judge of the Supreme Court in which such Chairperson or other Member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Chairperson or other Member referred to in sub-section (2).

10. Salaries, allowances and other terms and conditions of service of Chairperson and other Members : The salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairperson and other Members shall be such as may be prescribed by the Central Government:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson and other Members shall be varied to their disadvantage after their appointment.

11. Prohibitions as to holding of offices, etc., by Chairperson or Member on ceasing to be such Chairperson or Member : On ceasing to hold office—

(a) the Chairperson shall be ineligible for further employment either under the Government of India or under the Government of a State;

(b) a Member other than the Chairperson shall, subject to the provisions of this Act, be eligible for appointment as a member of any other Tribunal but not for any other employment either under the Government of India or under the Government of a State; and

(c) the Chairperson or other Members shall not appear, act or plead before the Tribunal.

12. Financial and administrative powers of Chairperson : The Chairperson shall exercise such financial and administrative powers over the Benches as may be prescribed:

Provided that the Chairperson shall have the authority to delegate such of his financial and administrative powers as he may think fit to any other Member or any officer of the Tribunal, subject to the conditions that such Member or officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the Chairperson.

13. Staff of the Tribunal : (1) The Central Government shall determine the nature and categories of the officers and other employees required to assist the Tribunal in the discharge of its functions and provide the Tribunal with such officers and other employees as it may think fit.

(2) The salaries and allowances payable to, and the other terms and conditions of service of the officers and other employees of the Tribunal shall be such as may be prescribed.

(3) The officers and other employees of the Tribunal shall discharge their functions under the general superintendence of the Chairperson.

CHAPTER III

JURISDICTION, POWERS AND AUTHORITY OF THE TRIBUNAL

14. Jurisdiction, powers and authority in service matters : (1) Save as otherwise expressly provided in this Act, the Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority, exercisable immediately before that day by all courts (except the Supreme Court or a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) in relation to all service matters.

(2) Subject to the other provisions of this Act, a person aggrieved by an order pertaining to any service matter may make an application to the Tribunal in such form and accompanied by such documents or other evidence and on payment of such fee as may be prescribed.

(3) On receipt of an application relating to service matters, the Tribunal shall, if satisfied after due inquiry, as it may deem necessary, that it is fit for adjudication by it, admit such application; but where the Tribunal is not so satisfied, it may dismiss the application after recording its reasons in writing.

(4) For the purpose of adjudicating an application, the Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, (5 of 1908) while trying a suit in respect of the following matters, namely—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, (1 of 1872) requisitioning any public record or document or copy of such record or document from any office;

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decisions;

(g) dismissing an application for default or deciding it exparte;

(h) setting aside any order of dismissal of any application for default or any order passed by it exparte; and

(i) any other matter which may be prescribed by the Central Government.

(5) The Tribunal shall decide both questions of law and facts that may be raised before it.

15. Jurisdiction powers and authority in matters of appeal against court martial : (1) Save as otherwise expressly provided in this Act, the Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable under this Act in relation to appeal against any order, decision, finding or sentence passed by a court martial or any matter connected therewith or incidental thereto.

(2) Any person aggrieved by an order, decision, finding or sentence passed by a court martial may prefer an appeal in such form, manner and within such time as may be prescribed.

(3) The Tribunal shall have power to grant bail to any person accused of an offence and in military custody, with or without any conditions which it considers necessary:

Provided that no accused person shall be so released if there appears reasonable ground for believing that he has been guilty of an offence punishable with death or imprisonment for life.

(4) The Tribunal shall allow an appeal against conviction by a court martial where

(a) the finding of the court martial is legally not sustainable due to any reason whatsoever; or

(b) the finding involves wrong decision on a question of law; or

(c) there was a material irregularity in the course of the trial resulting in miscarriage of justice,

but, in any other case, may dismiss the appeal where the Tribunal considers that no miscarriage of justice is likely to be caused or has actually resulted to the appellant:

Provided that no order dismissing the appeal by the Tribunal shall be passed unless such order is made after recording reasons therefor in writing.

(5) The Tribunal may allow an appeal against conviction, and pass appropriate order thereon.

(6) Notwithstanding anything contained in the foregoing provisions of this section, the Tribunal shall have the power to—

(a) substitute for the findings of the court martial, a finding of guilty for any other offence for which the offender could have been lawfully found guilty by the court martial and pass a sentence afresh for the offence specified or involved in such findings under the provisions of the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957) or the Air Force Act, 1950, (45 of 1950) as the case may be; or

(b) if sentence is found to be excessive, illegal or unjust, the Tribunal may—

(i) remit the whole or any part of the sentence, with or without conditions; (ii) mitigate the punishment awarded;

(iii) commute such punishment to any lesser punishment or punishments mentioned in the Army Act, 1950, (46 of 1950) the Navy Act, 1957 (62 of 1957) and the Air Force Act, 1950, (45 of 1950) as the case may be;

(c) enhance the sentence awarded by a court martial:

Provided that no such sentence shall be enhanced unless the appellant has been given an opportunity of being heard;

(d) release the appellant, if sentenced to imprisonment, on parole with or without conditions;

(e) suspend a sentence of imprisonment;

(f) pass any other order as it may think appropriate.

(7) Notwithstanding any other provisions in this Act, for the purposes of this section, the Tribunal shall be deemed to be a criminal court for the purposes of sections 175, 178, 179, 180, 193, 195, 196 or 228 (45 of 1860) of the Indian Penal Code and Chapter XXVI of the Code of Criminal Procedure, 1973. (2 of 1974)

16. Re-trial : (1) Except as provided by this Act, where the conviction of a person by court martial for an offence has been quashed, he shall not be liable to be tried again for that offence by a court martial or by any other Court.

(2) The Tribunal shall have the power of quashing a conviction, to make an order authorising the appellant to be retried by court martial, but shall only exercise this power when the appeal against conviction is allowed by reasons only of evidence received or available to be received by the Tribunal under this Act and it appears to the Tribunal that the interests of justice require that an order under this section should be made:

Provided that an appellant shall not be retried under this section for an offence other than—

(a) the offence for which he was convicted by the original court martial and in respect of which his appeal is allowed;

(b) any offence for which he could have been convicted at the original court martial on a charge of the first-mentioned offence;

(c) any offence charged in the alternative in respect of which the court martial recorded no finding in consequence of convicting him of the first-mentioned offence.

(3) A person who is to be retried under this section for an offence shall, if the Tribunal or the Supreme Court so directs, whether or not such person is being tried or retried on one or more of the original charges, no fresh investigation or other action shall be taken under the relevant provision of the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957) or the Air Force Act, 1950 (45of 1950) as the case may be, or rules and regulations made there under, in relation to the said charge or charges on which he is to be retried.

17. Powers of the Tribunal on appeal under section 15 : The Tribunal, while hearing and diciding an appeal under section 15, shall have the power—

a) to order production of documents or exhibits connected with the proceedings before the court martial;

b) to order the attendance of the witnesses;

c) to receive evidence;

d) to obtain reports from Court martial;

e) order reference of any question for enquiry;

f) appoint a person with special expert knowledge to act as an assessor; and

g) to determine any question which is necessary to be determined in order to do justice in the case.

18. Cost : While disposing of the application under section 14 or an appeal under section 15, the Tribunal shall have power to make such order as to costs as it may deem just.

19. Power to punish for contempt : (1) Any person who is guilty of contempt of the Tribunal by using any insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such Tribunal shall, on conviction, be liable to suffer imprisonment for a term which may extend to three years.

(2) For the purposes of trying an offence under this section, the provisions of sections 14, 15, 17, 18 and 20 of the Contempt of courts Act, 1971 (70 of 1971) shall mutatis mutandis apply, as if a reference therein to—

(a) Supreme Court or High Court were a reference to the Tribunal;

(b) Chief Justice were a reference to the Chairperson;

(c) Judge were a reference to the Judicial or Administrative Member of the Tribunal;

(d) Advocate-General were a reference to the prosecutor; and

(e) Court were a reference to the Tribunal.

20. Distribution of business among the Benches : The Chairperson may make provisions as to the distribution of the business of the Tribunal among its Benches.

CHAPTER IV
PROCEDURE

21. Application not to be admitted unless other remedies exhausted : (1) The Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of the remedies available to him under the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957) or the Air Force Act, 1950 (45 of 1950) as the case may be, and respective rules and regulations made thereunder.

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957) or the Air Force Act, 1950, (45 of 1950) and respective rules and regulations—

(a) if a final order has been made by the Central Government or other authority or officer or other person competent to pass such order under the said Acts, rules and regulations, rejecting any petition preferred or representation made by such person;

(b) where no final order has been made by the Central Government or other authority or officer or other person competent to pass such order with regard to the petition preferred or representation made by such person, if a period of six months from the date on which such petition was preferred or representation was made has expired.

22. Limitation : The Tribunal shall not admit an application—

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 21 has been made unless the application is made within six months from the date on which such final order has been made;

(b) in a case where a petition or a representation such as is mentioned in clause (b) of sub-section (2) of section 21 has been made and the period of six months has expired thereafter without such final order having been made;

(c) in a case where the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which jurisdiction, powers and authority of the Tribunal became exercisable under this Act, in respect of the matter to which such order relates and no proceedings for the redressal of such grievance had been commenced before the said date before the High Court.

(2) Notwithstanding anything contained in sub-section (1), the Tribunal may admit an application after the period of six months referred to in clause (a) or clause (b) of sub-section (1), as the case may be, or prior to the period of three years specified in clause (c), if the Tribunal is satisfied that the applicant had sufficient cause for not making the application within such period.

23. Procedure and powers of the Tribunal : (1) The Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice and subject to the other provisions of this Act and any rules made thereunder, the Tribunal shall have the power to lay down and regulate its own procedure including the fixing of place and time of its inquiry and deciding whether to sit in public or in camera.

(2) The Tribunal shall decide every application made to it as expeditiously as possible after a perusal of documents, affidavits and written representations and after hearing such oral arguments as may be advanced:

Provided that where the Tribunal deems it necessary, for reasons to be recorded in writing, it may allow oral evidence to be adduced.

(3) No adjournment shall be granted by the Tribunal without recording the reasons justifying the grant of such adjournment and cost shall be awarded, if a party requests for adjournment more than twice.

24. Term of sentence and its effect on appeal : (1) The term of any sentence passed by the Tribunal under clause (a) of subsection (6).of section 15 of this Act shall, unless the Tribunal otherwise directs, be reckoned to commence on the day on which it would have commenced under the Army Act, 1950, (46 of 1950) the Navy Act, 1957 (62 of 1957) or the Air Force Act, 1950 (45 of 1950) as the case may be, under which the court martial against which the appeal was filed, had. been held.

(2) Subject to the provisions of sub-section (3), any sentence passed on an appeal from the Tribunal to the Supreme Court in substitution for another sentence shall, unless the Supreme Court otherwise directs, be reckoned to commence on the day on which the original sentence would have commenced.

(3) Where a person who is undergoing sentence is granted stay of the operation of the said sentence, either by suspension or otherwise, pending an appeal, the period during which he is so

released due to the sentence having been so stayed, shall be excluded in computing the term for which he is so sentenced by the Tribunal or the Supreme Court, as the case may be.

25. Right of applicant or of appellant to take assistance of a legal practitioner and of Government, etc., to appoint counsel :(1) A person making an application or preferring an appeal to the Tribunal may either. appear in person or take the assistance of a legal practitioner of his choice to present his case before the Tribunal.

(2) The Central Government or the competent authority, as may be prescribed, may authorise one or more legal practitioners or any of its law officers to act as counsel and every person so authorised by it may present its case with respect to any application or appeal, as the case may be, before the, Tribunal.

26. Condition as to making of interim order : (1) Notwithstanding anything contained in any other provisions of this Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay or in any other manner) shall be made on an application or appeal, or in any proceeding relating thereto, unless- -

(a) copies of such application or appeal, as the case may be, and all documents in support of the plea for such interim order are furnished to the party against whom such application or appeal, as the case may be, is made or proposed to be made; and

(b) opportunity of being heard is given to the other party in the matter:

Provided that the Tribunal may dispense with the requirements of clauses (a) and (b) and make an interim order as an exceptional measure if it is satisfied, for reasons to be recorded in writing, that it is necessary so to do for preventing any loss being caused to the applicant or to the appellant, as the case may be.

(2) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on an application or appeal or in any proceeding relating thereto under sub-section (i), without—

(a) furnishing to such party copies of such application or appeal, as the case may be, and all documents in support of the plea for such interim order; and

(b) giving such party an opportunity of being heard, and making an application to the Tribunal for the vacation of such order and furnishing a copy of such application or appeal, as the case may be, to the party in whose favour such order has been made or the counsel of such party,

the Tribunal shall dispose of the application within a period of fourteen days from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the Tribunal is closed on the last day of that period, before the expiry of the next working day; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next working day, stand vacated.

27. Power of Chairperson to transfer cases from one Bench to another : On the application of any of the parties and after notice to the parties concerned, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairperson may transfer any case pending before one Bench for disposal, to, any other Bench.

28. Decision to be by majority : If the Members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point Or points on which they differ and make a reference to the Chairperson who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the Members of the Tribunal and such point or points shall be decided according to the opinion of the majority of the Members of the Tribunal who have heard the case, including those who first heard it.

29. Execution of order of Tribunal : Subject to the other provisions of this Act, and the rules made thereunder, the order of the Tribunal disposing of an application shall be final and shall not be called in question in any Court and such order shall be executed accordingly.

CHAPTER V

APPEAL

30. Appeal to Supreme Court : (1) Subject to the provisions of section 31, an appeal shall lie to the Supreme Court against the final decision or order of the Tribunal (other than an order passed under section 19):

Provided that such appeal is preferred within a period of ninety days of the said decision or order:

Provided further that there shall be no appeal against an interlocutory order of the Tribunal.

(2) An appeal shall lie to the Supreme Court as of right from any order or decision of the Tribunal in the exercise of its jurisdiction to punish for contempt: .

Provided that an appeal under this sub-section shall be filed in the Supreme Court within sixty days from the date of the order appealed against.

(3) Pending any appeal under sub-section (2), the Supreme Court may order that—

(a) the execution of the punishment or the order appealed against be suspended; or

(b) if the appellant is in confinement, he be released on bail:

Provided that where an appellant satisfies the Tribunal that he intends to prefer an appeal, the Tribunal may also exercise any of the powers conferred under clause (a) or clause (b), as the case may be.

31. Leave to appeal : (1) An appeal to the Supreme Court shall lie with the leave of the Tribunal; and such leave shall not be granted unless it is certified by the Tribunal that a point of law of general public importance is involved in the decision, or it appears to the Supreme Court that the point is one which ought to be considered by that Court.

(2) An application to the Tribunal for leave to appeal to the Supreme Court shall be made within a period of thirty days beginning with the date of the decision of the Tribunal and an application to the Supreme Court for leave shall be made within a period of thirty days beginning with the date on which the application for leave is refused by the Tribunal.

(3) An appeal shall be treated as pending until any application for leave to appeal is disposed of and if leave to appeal is granted, until the appeal is disposed of; and an application for leave to appeal shall be treated as disposed of at the expiration of the time within which it might have been made, but it is not made within that time.

32.condonation : The Supreme Court may, upon an application made at any time by the appellant, extend the time within which an appeal may be preferred by him to that Court under section 30 or sub-section (2) of section 31.

CHAPTER VI

MISCELLANEOUS

33. Exclusion of jurisdiction of civil courts : On and from the date from which any jurisdiction, powers and authority becomes exercisable by the Tribunal in relation-to service matters under this Act, no Civil Court shall have, or be entitled to exercise, such jurisdiction, power or authority in relation to those service matters.

34. Transfer of pending cases : (1) Every suit, or other proceeding pending before any court including a High Court or other authority immediately before the date of establishment of the Tribunal

under this Act, being a suit or proceeding the cause of action whereon it is based, is such that it would have been within the jurisdiction of the Tribunal, if it had arisen after such establishment within the jurisdiction of such Tribunal, stand transferred on that date to such Tribunal.

(2) Where any suit, or other proceeding stands transferred from any court including a High Court or other authority to the Tribunal under sub-section (1),—

(a) the court or other authority shall, as soon as may be, after such transfer, forward the records of such suit, or other proceeding to the Tribunal;

(b) the Tribunal may, on receipt of such records, proceed to deal with such suit, or other proceeding, so far as may be, in the same' manner as in the case of an application made under sub-section (2) of section 14, from the stage which was reached before such transfer or from any earlier stage or de novo as the Tribunal may deem fit.

35. Provision for filing of certain appeals : Where any decree or order has been made or passed by any court (other than a High Court) or any other authority in any suit or proceeding before the establishment of the Tribunal, being a suit or proceeding the cause of action whereon it is based, is such that it would have been, if it had arisen after such establishment, within the jurisdiction of the Tribunal, and no appeal has been preferred 'against such decree or order before such establishment or if preferred, the same is pending for disposal before any court including High Court and the time for preferring such appeal under any law for the time being in force had not expired before such establishment, such appeal shall lie to the Tribunal, within ninety days from the date on which the Tribunal is established, or within ninety days from the date of receipt of the copy of such decree or order, whichever is later.

36. Proceedings before Tribunal to be judicial proceedings : All proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 (45 of 1860) of the Indian Penal Code.

37. Members and staff of Tribunal to be public servants : The Chairperson, other Members and the officers and other employees provided under section 13 to the Tribunal shall be deemed to be public servants within the meaning of section 21 (45 of 1860) of the Indian Penal Code.

38. Protection of action taken in good faith : No suit, prosecution or other legal proceeding shall lie against the Central Government or against the Chairperson or any other Member or any other person authorised by the Chairperson, for anything which is done in good faith or intended to be done in pursuance of this Act or any rule or order made thereunder in the discharge of official duties.

39. Act to have overriding effect : The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained, in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

40. Power to remove difficulties : (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

41. Power of Central Government to make rules : (1) The Central Government may, by notification, make rules for the purposes of carrying out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the case or cases which shall be decided by a Bench composed of more than two Members under clause (c) of sub-section (3) of section 5;

(b) the procedure under sub-section (3) of section 9 for the investigation of misbehaviour or incapacity of Chairperson or other Member;

(c) the salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and other Members under section 10;

(d) the financial and administrative powers which the Chairperson may exercise over the Benches of the Tribunal under section 12;

(e) the salaries and allowances payable to, and other terms and conditions of service of the officers and other employees of the Tribunal under sub-section (2) of section 13;

(f) the form in which an application may be made under sub-section (2) of section 14, the documents and other evidence by which such application shall be accompanied and the fee payable in respect of the filing of such application or for the service of execution of processes;

(g) the other matter which may be prescribed under clause (i) of sub-section (4) of section 14;

(h) the form and manner in which an appeal may be filed, the fee payable thereon and the time within which such appeal may be filed under sub-section (2) of section 15;

(i) the rules subject to which the Tribunal shall have power to regulate its own procedure under sub-section (1) of section 23;

(j) competent authority who may authorise legal practitioners or law officers to act as counsel under sub-section (2) of section 25;

(k) any other matter which may be prescribed or in respect of which rules are required to be made by the Central Government.

42. Power to make rules retrospectively : The powers to make rules under section 41 shall include the power to make such rules or any of them retrospectively from a date not earlier than the date on which this Act shall come into operation but no such retrospective effect shall be given to any such rule so as to prejudicially affect the interests of any person to whom such rule may be applicable.

43. Laying of rules : Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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